Message

From: Kent, Isabela [Kent.Isabela@epa.gov]
Sent: 3/10/2021 9:30:18 PM
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Subject: Daily Media Clips (Afternoon Edition) 3/10/21

Daily Media Clips (Afternoon Edition)
March 10, 2021

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Bloomberg Law: EPA Staffers Want to See Proof of Biden's New Management Style

https://news.bloomberglaw.com/environment-and-energy/epa-staffers-want-to-see-proof-of-bidens-new-management-style

By Stephen Lee

March 10, 2021, 6:00AM

- Staffers say they're cautiously optimistic but skeptical
- Agency pledges to work to regain trust

If he's confirmed by the Senate, Michael Regan, President Joe Biden's pick to lead the EPA, will be walking into a beleaguered workplace full of tired, skeptical staffers, current employees say.

For many—but by no means all—Environmental Protection Agency staffers, Biden's election signaled a return to bedrock environmental principles. But they also say they're not taking the new administration's promises at face value, and that Regan will have to prove to them that the EPA will follow through.

Morale at the agency has broadly improved since the Trump administration, but many employees are still waiting for management to repudiate a union contract that was put in place during Andrew Wheeler's tenure and remains in effect, said Nicole Cantello, an EPA attorney in the agency's Midwest region and president of the American Federation of Government Employees Local 704 in Chicago.

Bloomberg Law spoke with a dozen current EPA employees, who said they've seen few signs of change in their day-to-day work lives. Most of the staffers declined to be identified in order to speak freely.

"I think the trust will have to be earned back," said one EPA attorney. "I'm excited, but call me a doubting Thomas. It doesn't mean you're not faithful if you want to see it to believe it."

Senate Majority Leader Chuck Schumer (D-N.Y.) filed cloture for Regan's nomination March 6, with a vote to limit debate scheduled for Wednesday.

'Taking Them Seriously'

EPA spokesman Nick Conger said the Biden team is aware of the problem and will work hard to repair bruised relationships.

"We understand employees have significant concerns and we want the agency's workforce to know that the new leadership team is aware of these issues and is taking them seriously," Conger said.

Regan also pledged to work on the issue during his Feb. 3 Senate confirmation hearing. Acknowledging that the damage to staff morale would have to be repaired quickly, the former chief of the North Carolina Department of Environmental Quality said he would "do an assessment to determine how can we best move forward, learn from the past, but stay leaning forward as we solve some of these complex issues."

Moreover, Biden has only been in office for two months, and many of the most significant changes won't be implemented until an administrator is installed at the head office.

In the meantime, the House Energy and Commerce Committee's oversight panel is holding a hearing Wednesday on "restoring the vital mission of EPA." Invited witnesses include former Administrators Christine Whitman and Carol Browner.

Concerns About Old Policies

In some cases, employees say they haven't gotten signs that policies instituted during the Trump era will ever be walked back.

For example, several staffers said they still have to follow a management system implemented during the Trump years and known as the EPA Lean Management System (ELMS), which many deride as a waste of time that doesn't help them protect the environment.

The system is a set of activities across more than 800 metrics designed to find and fix workflow problems. The system uses wall-mounted boards to measure a team's progress toward a certain goal, as well as weekly 15-minute group meetings for staff to talk about problems and possible solutions.

One employee in a regional EPA legal office said ELMS is now so baked into the agency's day-to-day processes that she can't envision it being removed.

"Many managers have embraced it," she said. "So many databases have been created in the last six months that now track all the work. It's not going away."

The EPA didn't respond directly to questions about its plans for ELMS, which former agency chief Andrew Wheeler said last year had helped reduce a backlog of new permit applications older than six months by 65%.

Similarly, an employee in the Office of Chemical Safety and Pollution Prevention said a dramatic reorganization of that division in September 2020, which reshuffled the structure of OCSPP's three main divisions, has created widespread confusion that is continuing.

"A new office is all fine and good, but it's problematic when you have an HR question or want to make sure your messaging for a sensitive topic is on point, and you have no idea who to turn to or talk to," the staffer said.

Low Morale

Another lingering morale problem is that many EPA career managers who backed the Trump agenda are still on the job, employees say.

For example, the EPA attorney said her managers embraced a September 2020 executive order that banned "divisive" workplace diversity training that contractors and other recipients of federal funding deliver. A federal judge issued a preliminary injunction blocking parts of the order, and Biden revoked it the day he took office.

"Everybody fell into line very quickly," she said of her managers, referring to the initial Trump order. "There was very little pushback. Very few people were saying, 'Maybe this is pushing the boundaries.' So I'm thinking, they just conformed so quickly with that stuff, and some of it was illegal, and now you're saying, 'O.K., new day, new president'? That's a concern for me. I don't want to deal with the same people who enforced illegal policies."

One former high-ranking EPA official from the Trump era didn't see a problem with managers following orders from above.

"The notion that Andrew Wheeler or anyone else in the Trump administration mistreated people simply by implementing policies they disagreed with is ridiculous," she said.

Working With Employees

Conger said the agency's new leadership is "committed to working with EPA's employees to make the agency an even better place to work so that our professionals are free to fully dedicate themselves to their work on behalf of the American people, and to the agency's mission of protecting human health and the environment."

In response to the union contract, an agency spokesman said the Biden administration will work to address those concerns and will have "collaborative, constructive, and ongoing discussions with EPA's employees, as well as with the unions that represent them."

Other members of Biden's team have made similar pledges.

Janet McCabe, Biden's nominee for the number two job at the EPA, said during her March 3 Senate confirmation hearing that her "main job, as I understand it, would be to support the amazing workforce. They need a safe environment, they need support, they need respect."

In the meantime, EPA employees said they're remaining hopeful.

"I trust the agency is heading in the right direction, but trust stagnates," said the staffer in the regional counsel's office. "Anything has got to be better than what we were put through in these last four years, but you can't just flip a switch."

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The Hill: Former EPA head says agency must 're-establish a commitment to sound science'
https://thehill.com/policy/energy-environment/542543-former-epa-head-whitman-says-agency-must-re-establish-a-commitment

BY ZACK BUDRYK - 03/10/21 12:50 PM EST 98

Two former Environmental Protection Agency (EPA) administrators praised Michael Regan, President Biden's nominee for the position, before a House panel Wednesday and expressed hope that the Biden administration would restore morale among the agency's rank and file.

Christine Todd Whitman, who served as EPA administrator from 2001-2003, issued veiled criticism of the Trump administration EPA without specifically naming the former president.

"In recent years, EPA leadership has suffered under the leadership of people who seem neither to understand nor appreciate the vital role EPA plays in American life," Whitman said in the Wednesday hearing of the House Energy & Commerce Committee's Subcommittee on Oversight and Investigations.

Whitman added that, "the basic recognition that good science is the foundation of good policy has been eroded" and "the morale of the EPA's dedicated career servants has plummeted."

The former administrator hailed Regan as "possessing the experience and expertise credibility to restore people's faith in the EPA," adding that the Biden administration's "first order of business" at the EPA must be "to re-establish a commitment to sound science as an integral and indispensable part of policymaking."

Whitman decried climate change being treated as a "political football" and said she believed "leadership from the White House will make a huge difference" on environmental and climate issues.

Carol Browner, who served as EPA administrator from 1993 to 2001 under then-President Clinton, said she expected Regan to be a "wonderful leader" and outlined what she believed should be the four priorities for an effective EPA: following available science, adhering to the law, enforcement and environmental justice.

"If those are the cornerstones of how EPA thinks about its work on a daily basis, they will be able to serve all Americans," she added. She went on to advise the Biden administration that "There is a lot of authority that is sitting there that can be used by the agency to meet the challenges of today."

Browner also addressed politicization of energy and environmental policy, particularly pertaining to job creation, saying "We do not have to choose between a healthy environment and a healthy economy."

Committee Chair Frank Pallone (D-N.J.) specifically asked Whitman about the balance between environmental enforcement and job creation, which Whitman also called a false choice.

"There are new technologies that are going to be developed, there are new energy sources that will be developed," she said, noting that even as the U.S. population and its energy consumption grew between 1980 and 2017, it reduced pollution according to EPA determinations of pollutants.

"That's what can happen when we talk about addressing things like climate change," she said.

GOP critics of the president's environmental and energy policies have frequently say they will devastate the job market, specifically his freeze on new leases for oil and gas drilling on public lands and his cancellation of the Keystone XL pipeline.

Inside EPA Ewire: EPA staff want 'proof' of Biden, Regan's new management style
https://insideepa.com/daily-feed/ewire-epa-staff-want-proof-biden-regan-s-new-management-style
March 10, 2021
More than a dozen EPA staffers say they feel demoralized and skeptical after four years of the Trump administration's policy rollbacks and want Michael Regan -- President Joe Biden's nominee to lead the agency -- to show them "proof" he will overhaul EPA for the better if the Senate confirms him, a vote set for March 10.
One unidentified agency attorney tells *Bloomberg Law* in a March 10 article, "I think the trust will have to be earned back. I'm excited, but call me a doubting Thomas."
The article notes that Biden's election signaled a return to bedrock environmental principles to many EPA staffers, with the president outlining an ambitious agenda for tackling climate change, environmental justice and other issues. But it also notes that the staffers interviewed are not taking the new administration's promises to return the agency to its mission and to treat career employees with respect at face value. Instead, they say Regan will have to prove to them that EPA will follow through on these promises if the Senate confirms him to lead the agency -- a vote originally slated for March 9 but that might now occur the evening of March 10. Regan is expected to easily win bipartisan confirmation, as his nomination cleared the Senate environment panel in a 14-6 vote on Feb. 9 with backing from four Republicans.
While agency sources told *Bloomberg Law* that morale at EPA has greatly improved since the Trump administration left, many employees are still waiting for management to repudiate a union contract put in place during former Administrator Andrew Wheeler's tenure and which remains in effect, Nicole Cantello, president of the American Federation of Government Employees Local 704 for EPA Region 5 in Chicago, said. And the article notes that based on interviews with more than a dozen current EPA staffers, employees so far have seen few signs of change in their day-to-day work lives despite the change in administration nearly two months ago.
EPA spokesman Nick Conger said the Biden team is aware of the morale problem and will work hard to improve it, according to the article. "We understand employees have significant concerns and we want the agency's workforce to know that the new leadership team is aware of these issues and is taking them seriously."
Regan also pledged to address the issue, saying he would "do an assessment to determine how can we best move forward, learn from the past, but stay leaning forward" at his Feb. 3 Senate confirmation hearing.

Regan's looming confirmation comes the same day the House Energy & Commerce Committee's oversight panel is holding a hearing on "restoring the vital mission of EPA," with witnesses including Christine Todd Whitman, who served as EPA administrator in the George W. Bush administration; Carol Browner, who served as EPA administrator in the Clinton administration, and others.
However, a second EPA Region 5 staffer told *Inside EPA* last month that there is a "sigh-of-relief sentiment going around the entire agency," and that staff are "super encouraged" by early Biden reversals of Trump policies.
"We feel like we can do our jobs, like we're back, we're raring to go," the staffer said.

National Association of Counties: EPA officials commit to county partnerships for local environmental goals

https://www.naco.org/articles/epa-officials-commit-county-partnerships-local-environmental-goals

By Rachel Looker Mar. 10, 2021

Environmental and climate priorities for the Biden administration and the Environmental Protection Agency (EPA) will focus on climate change, environmental justice and restoring fact-based decision-making, according to Casey Katims, the EPA's deputy associate administrator for Intergovernmental Affairs.

Katims discussed President Biden's executive orders related to the environment with county officials during the Environment, Energy and Land Use Policy Steering Committee meeting March 9 during NACo's Virtual Legislative Conference.

Biden issued an executive order that calls for embedding environmental justice into all federal policy decision-making, which included creating a new White House Environmental Justice Interagency Council which the EPA has been chosen to lead, Katims said.

Through an additional executive order by Biden, Katims said the EPA is reviewing all environmental rules from the Trump administration to ensure they are consistent with science, adhere to the law, and protect public health and the climate. Rules relate to methane from oil and gas operations, the fuel economy, greenhouse gas emission standards and mercury limits.

Specifically on the local level, Katims said the administration is committed to supporting environmental goals from electrifying transportation systems to advancing environmental justice and increasing recycling.

He said the agency is committed to its partnership with counties.

"We know that you're on the frontlines of protecting your communities and ensuring the health and safety of your residents 24/7 and we can really only do our job by developing and fostering and cultivating that really close partnership," he said.

The EPA is seeking nominees starting March 12 for its Local Government Advisory Committee and Small Communities Advisory Committee for interested county officials.
"We welcome at EPA your input and collaboration from ensuring clean air and water to addressing PFAS [certain man-made chemicals], from land use to waste management," he said. "The environmental challenges we're facing are really complex and can only really be addressed through a strong partnership between the federal and local levels."

The EPA's Municipal Ombudsman Jamie Piziali spoke with the committee about clean water issues.

In her role, Piziali serves as an independent, impartial and confidential resource to assist municipalities including cities, towns, counties, boroughs, parishes, tribes, associations and other public bodies that have jurisdiction over sewer and industrial waste.

"We're certainly all going to need to work together on more innovative ways to address Clean Water Act requirements to help communities who are addressing tough concerns like through overflows or advance treatment needs," she said. "More holistic, more thoughtful and innovative planning can really help make water infrastructure more effective and hopefully more affordable for everyone."

Piziali is working to plan and publicize several integrative planning efforts that are of interest to county officials including a partnership with the EPA's Environmental Finance Centers to provide technical assistance to municipalities that need assistance developing integrative plans. The Finance Centers will also be holding an integrative planning peer-to-peer exchange March22 focused on municipalities.

Elizabeth Knoll, U.S. Department of Energy deputy assistant secretary, added that focus areas related to energy for the new administration center on energy jobs and energy justice.

The department is looking for ways to leverage programs to support job growth throughout the transition to clean energy, she explained, ensuring that communities are not being left behind.

"We believe that clean energy can and will support good paying quality union jobs," she said. "We've got a lot of work to do to make that happen."

In other business, members of the Environment, Energy and Land Use Policy Steering Committee debated two proposed interim policy resolutions while passing two others.

Committee members passed a resolution encouraging Congress to enact the National Heritage Area Act for congressionally designated National Heritage Areas. Members passed a second resolution to enhance pollinator species and their habitats throughout counties.

A third resolution proposed to include local government entities within the Clean Water Act Section 404 Permitting Exclusions.

Lafourche Parish (La.) President Archie Chaisson said the resolution is asking for exemptions to reduce costs and time during the permitting process for everyday work completed by county public works agencies.

"Just because there is a connection between a wetland environment and a drainage ditch on an urban street, we should not be forced to permit and then mitigate for that work being done on the urban street," he said.

Other committee members emphasized the importance of protecting wetlands and said they were concerned with the broad wording of the resolution describing it as a "blanket exclusion" for local governments.

The committee voted to table the resolution; however, later in the meeting, members passed an amended resolution specifying the exemptions were for "public works general maintenance and repair projects."

A fourth proposed resolution supported the development of a national equity map to obtain accurate geographic data that would enable counties to assess the systemic barriers underserved communities face when accessing county programs.

Members debated the resolution, arguing the equity map would create more division and lacks the time frame to collect accurate data, specifically in rural counties.

The resolution passed 16-15.

E&E News: Email to staff: Report pandemic-related discrimination
https://www.eenews.net/greenwire/2021/03/10/stories/1063727099
Hannah Northey and Kevin Bogardus, E&E News reporters
Published: Wednesday, March 10, 2021

A top EPA official yesterday asked agency staff to report discrimination and harassment against Asians and Pacific Islanders, calling such behavior a "clearly preventable symptom of COVID-19," according to an internal email obtained by E&E News.

JuanCarlos Hunt, director of the agency's Office of Civil Rights, said in an **email** to staff yesterday that the agency will not tolerate discrimination in the workplace, and pointed to a shift in attitudes amid an ongoing pandemic that has already resulted in more than 29 million cases and claimed more than 525,000 lives in the United States.

"However, as is often the case when there is a tragedy, some will seek to blame a group who has nothing to do with the tragedy," he wrote.

Hunt called on EPA employees to report discrimination and harassment against Asian Americans and Pacific Islanders, writing that "the Office of Civil Rights will investigate these claims; and, it will recommend action, which can include termination, if it finds discrimination and/or harassment."

Prior to joining EPA, Hunt served as an administrative law judge at the Social Security Administration and as director of the Office of Civil Rights and Diversity at the U.S. Agency for International Development.

He has held various positions at the Department of Justice, including director of the Executive Office for Immigration Review. From 2001 to 2004, Hunt was a trial attorney at the U.S. Equal Employment Opportunity Commission (EEOC), where he enforced federal anti-discrimination laws against private-sector employers.

In the letter, Hunt recalled how harassment against Muslims, Arabs and people who "looked" Muslim or Arab increased after the terrorist attacks of 2001, when he was working as a trial attorney at EEOC.

He recalled how a member of the Sikh faith was slain in Arizona, an Egyptian Christian was killed in California, a Yemeni American Muslim was killed in California, and "many, many other men and women were discriminated and harassed," he wrote.

Hunt also recalled how the agency held listening sessions in the community and reminded everyone that the EEOC would not tolerate discrimination based on national origin or religion in the workplace, and urged people who felt voiceless to contact the office and report misconduct.

"Almost twenty years later, I wish to send a similar message to all of EPA's employees," Hunt wrote. "EPA will not tolerate discrimination, including harassment, in the workplace."

Despite a growing uptick in reports of attacks and abuse against Asians in 47 states and the District of Columbia, Hunt said he's also encouraged by those standing up to it. Last night, he said, "EPA's Senior Executive Service, Senior Level/Scientific and Professional People of Color" sent an "open letter of AAPI solidarity" to all career SES condemning racist acts and providing recommendations.

Since sending that letter, Hunt said, "all day long, members of the SES cadre have expressed support, thanks, and solidarity" to Nigel Simon, director of the Office of Program Management, who spearheaded the letter.

"It is now up to us to make sure we walk the talk," Hunt wrote. "I am confident we will."

Email: **hnorthey@eenews.net**

Fox News: EPA spent $52.5 million in taxpayer funds without proper approval, IG report finds
https://www.foxnews.com/politics/epa-spending-taxpayer-funds-without-approval-ig-report?cmpid=pm_newsstand

Inspector general investigated after a complaint about 'contract and bidding irregularities'

By Houston Keene **| Fox News**
An investigator general report found that the U.S. Environmental Protection Agency (EPA) "improperly" doled out and managed millions of dollars worth of taxpayer dollars in information technology contracts between 2017 and 2019.

The EPA's Office of Inspector General reported Wednesday that the agency had spent $52.5 million in taxpayer money on the deals, which the watchdog had investigated following a complaint about "contract and bidding irregularities with three major information technology contracts."

The report said the EPA violated "Federal Acquisition Regulation requirements and contract clauses" when they "purchased 23 pieces of hardware and software equipment" through an "expiring" IT contract with Canadian IT company CGI Federal.

"This purchase was outside the scope of the contract and was ultimately never used for that contract," wrote the IG's office. "The EPA then improperly solicited bids for one of two subsequent contracts and transferred the equipment to use on the new contract."

"By approving the purchase, the EPA improperly spent $641,680 in federal funds," the report continued.

The report went on to reveal that the EPA "issued task orders" under the three contracts "without approval" from the agency's CIO – which the watchdog says is "required under the Federal Information Technology Acquisition Reform Act (FITARA)."

These tasks orders "resulted in the EPA spending $52.5 million in taxpayer funds without proper approvals," the report read.

"The agency also mismanaged these contracts with respect to monitoring property and licenses," the report continued. "For example, the EPA underreported and incorrectly identified purchased equipment in the agency's property reporting system and did not record $1.18 million in software licenses in the agency's asset management system."

The IG said in the conclusion of the report that the EPA "CIO was unaware of significant acquisitions made by the agency and was unable to appropriately review price competitions, cost reductions and duplicate equipment."

"As a result, the EPA spent $52.5 million in taxpayer dollars without the CIO's oversight," the IG concluded.

The watchdog recommended that the agency's assistant administrator for mission support "[r]eview all active contracts for acquisitions of information technology hardware, software and services in fiscal year 2016 and later" to see if the "required" FITARA approvals had been "obtained."

The IG also called on the assistant administrator to "identify cost findings in the process from hardware and software purchases that were either duplicates or unnecessary" and to "[r]equire contracting officers to maintain records" of CIO approvals, "including those under" FITARA.

When pressed for comment, a spokesperson for the EPA pointed Fox News to their response in the IG report, where the agency said it "agreed" with the IG's recommendations in the report.

The confirmation of President Joe Biden's pick to lead the EPA, Michael Regan, is up for a vote in the Senate this week.

JD Supra: U.S. Environmental Protection Agency Biosolids Biennial Report: February 2020 Report Issued
https://www.jdsupra.com/legalnews/u-s-environmental-protection-agency-1383484/

by Walter Wright
Download PDF

The United States Environmental Protection Agency ("EPA") published a February 2021 document titled:

Biosolids Biennial Report No. 8 ("Report")

The *Report* addresses the reporting period 2018-2019.

Section 405(d)(2)(C) of the Clean Water Act requires that EPA conduct a biennial review of 40 C.F.R. Part 503. As part of this review process, EPA collects and reviews publically available information addressing:

1. Pollutants and biosolids that were newly identified during the literature search timeframe 2018-2019
2. Pollutants and biosolids that were previously identified in EPA national sewage sludge surveys conducted in 1988, 2001, and 2019 and/or in previous biennials reviews

The information collected addresses the occurrence, fate and transport of such pollutants in the environment. Also addressed are their effects on human health and ecological receptors.

Biosolids are often described as nutrient-rich organic substances derived from the treatment of domestic sewage in a wastewater treatment plant. They can constitute a beneficial resource because of they contain

essential plant nutrients and organic material. As a result, they are often utilized/recycled as a fertilizer and soil amendment.

Section 405 of the Clean Water Act and the regulations (40 C.F.R. Part 503) require that sewage solids be treated to meet regulatory requirements if such biosolids are to be recycled. Some biosolids permits are issued through Clean Water Act National Pollution Discharge Elimination System permits.

EPA states that the *Report* identified 18 peer-reviewed articles referencing 116 new chemicals that occur in biosolids which included:

- 50 polychlorinated biphenyls
- 4 pesticides
- 19 flame retardants
- 8 perfluoroalkyl substances
- 3 antibiotics
- 1 Metal
- 2 inorganics
- 29 other organics

New data was also stated to have been identified for 48 chemicals previously indicated to be in biosolids. Concentration data for biosolids were found for 61 of the 116 new chemicals and for 34 chemicals identified in previous biennial reviews.

A copy of the *Report* can be downloaded here.

Children's Health Defense: 100-Plus Groups Urge EPA to Ban Pesticide That Harms Children's Brains
https://childrenshealthdefense.org/defender/groups-urge-epa-ban-pesticide-harms-childrens-brains/

Chlorpyrifos, a pesticide widely used on food crops, including apples, cherries, peaches, citrus and wheat, is known to cause neurological harm in children.

By Ashley Curtin

Chlorpyrifos, a nerve-agent pesticide used on various food crops, is under review after President Biden signed an executive order directing the Environmental Protection Agency (EPA) to review the Trump administration's decision to allow the pesticide's continued use on 11 foods. But more than 100 farming, public health and environmental organizations are urging the Biden administration to ban the "neurotoxic pesticide."
Chlorpyrifos belongs to a class of nerve-agent pesticides called organophosphates, and is "acutely toxic and associated with neurodevelopmental harms in children," according to Earthjustice. Not only is the pesticide harmful to children, it's prolonged exposure to farmworkers and endangered species is said to have brain-harming effects, according to multiple studies.
"After a thorough analysis of scientific evidence showing harmful impacts, EPA first proposed a ban on chlorpyrifos in 2015," Daniel Savery, senior legislative representative for the Healthy Communities program at Earthjustice, said. "Six years later, we are still fighting for the pesticide to be cancelled."
According to Earthjustice, the EPA denied a petition to ban chlorpyrifos under the Trump administration. A letter to the current administration's EPA asks the agency to act quickly and end all food and non-food uses of chlorpyrifos immediately.
"When Michael Regan is confirmed, one of his first actions should be to grant the petition and ban this toxic pesticide immediately," Savery said.

Chlorpyrifos is widely used on numerous crops, including apples, cherries, peaches, citrus and wheat. According to multiple studies, the pesticide causes neurodevelopmental harm in children, while prenatal exposure is "linked to lower birth weight, reduced IQ, loss of working memory, attention disorders, and delayed motor development."
As part of their review of the registration of chlorpyrifos, the EPA is currently accepting public comments as required by law.

"It is time for the Biden administration to demonstrate its commitment to science, children, and farmworkers and finish the job," Savery said.

Originally published by Nation of Change.

Inside EPA: EPA Planning New Interstate Air Rule For Attaining 2015 Ozone Standard
https://insideepa.com/daily-news/epa-planning-new-interstate-air-rule-attaining-2015-ozone-standard
March 10, 2021

The Biden EPA is planning a new interstate air pollution rule to help states meet the 2015 ozone ambient air limit, sources say, separate from an imminent final rule updating an existing air trading program for meeting the earlier 2008 ozone air limit that is expected to largely echo a Trump-era proposed version revising the program.
Sources say the new regulation will be distinct from the pending final rule, due by a March 15 judicial deadline, through which EPA must address an appeals court mandate to revise and tighten the air pollution caps in its Cross-State Air Pollution (CSAPR) emissions trading program for reducing ozone-forming nitrogen oxides (NOx) and particulate matter-forming sulfur dioxide (SO2) from power plants in the eastern part of the country.
"I expect EPA will meet the court's March 15 deadline. With the court-ordered deadline, the new administration felt it didn't have much time to review and decide if they could make changes. Instead, they're going to focus on a transport rule for the 2015 ozone NAAQS to address issues raised with the Revised CSAPR Update rule," says a state air expert.
The Trump EPA **last fall proposed** to tighten the caps, or "budgets," in CSAPR to further reduce NOx, but declined to extend the program to other sources than power plants or mandate that utilities "optimize" use of existing air controls as some eastern states and environmentalists sought. The rule responds to a federal appeals court ruling that said CSAPR fell short of EPA's duty to assist states with attaining the earlier 2008 ozone national ambient air quality standard (NAAQS), which the George W. Bush administration set at 75 parts per billion (ppb).
EPA on Feb. 24 sent the final version of the CSAPR revision rule for White House Office of Management & Budget (OMB) mandatory pre-publication review, which typically takes 90 days but can be much shorter for some rules.
In response to a request for comment by *Inside EPA*, an agency spokesperson says, "EPA will follow the science and law in accordance with the Biden-Harris Administration's executive orders and other directives in reviewing all of the agency's actions issued under the previous Administration to ensure that they protect public health and the environment. We will share more information when it becomes available."
As a result of the tight deadline for finalizing the CSAPR revision, sources say the agency is unlikely to depart significantly from the Trump proposal given the time constraints. Instead, EPA will launch a new rulemaking aimed at helping states attain the 2015 ozone national ambient air quality standard (NAAQS), and that effort may address states' concerns over optimizing controls and related issues.

The Trump administration in January decided to retain the ozone limits as part of a Clean Air Act-mandated five-year review of the standards, although the Biden EPA is also now reviewing that decision.
There is no interstate program like CSAPR for the 2015 ozone NAAQS, so states must submit their own state implementation plans (SIPs) to EPA showing how they will meet their Clean Air Act "good neighbor" obligation to curb their air pollution that travels to other states. States must mitigate their "significant contribution" to other states' problems attaining and maintaining NAAQS, and the Trump EPA allowed "upwind" states more leeway to define "significant contribution" than the Obama EPA did, potentially resulting in weaker SIPs.
The U.S. Court of Appeals for the District of Columbia Circuit in its 2019 ruling in *Wisconsin v. EPA* found that CSAPR, as updated in 2016, was not a full solution to states' problems in attaining the 2008 ozone NAAQS, and remanded the rule to the agency to revise. East Coast states sued the agency successfully in federal district court to force a faster response to the remand, citing their looming deadlines in 2021 to attain the 2008 NAAQS.

Remand Rule

While some Northeast and Mid-Atlantic states welcomed the Trump proposal to tighten CSAPR, the remand rule as proposed omits some of the changes sought by states such as Maryland, which is pushing for optimization of existing emissions controls on power plants such as selective catalytic reduction (SCR). Currently, power plants can comply with CSAPR without always running controls, and can buy cheap emissions credits instead.
East Coast states argue this cannot prevent spikes of high ozone on hot summer days prone to ozone formation, when electric demand and emissions typically are high. Some have argued for new, daily limits on NOx from power plants. Further, CSAPR is now restricted to power plants, when other stationary sources could also be included.
Utilities in upwind Midwestern states are opposing tougher emissions caps under CSAPR as unnecessary and unjustified, pointing to major declines in NOx from power plants in recent years, driven in large part by fuel-switching from coal to natural gas or renewable energy. Gas-fired power plants emit much lower levels of NOx, while remaining coal plants have in many cases also installed emissions controls in response to various EPA regulations.
Many in the utility sector therefore encourage EPA to look instead to mobile sources of NOx such as heavy trucks for more emissions cuts, which would require a new national rule, possibly similar to heavy-duty NOx standards being developed in California. Environmentalists and coastal states agree that further action is required on heavy-duty vehicles, but not to the exclusion of stricter regulation of stationary sources.
Industry groups outside of the utility sector are urging EPA not to expand CSAPR beyond power plants, saying the trading program is inherently unsuitable for the wide range of industrial boilers in existence and that further emissions cuts would be better targeted at mobile sources, which now contribute the largest share of NOx pollution. EPA could revisit the issue of the scope of air trading in its eventual rule addressing the 2015 ozone NAAQS.
The state air expert says of the remand plan, "In my opinion, they should have at least required greater earlier and achievable reductions from installed selective non-catalytic reduction controls (SNCR), just as they proposed doing with installed [SCR]." SNCR is a cheaper, and less-effective, alternative to SCR.
The expert continues, "That doesn't strike me as a change outside the scope of the original proposal that wouldn't be reasonably expected. EPA had discussion of it in the proposed rule, and asked for comments on it. Those additional reductions are also consistent with occurring prior to the Clean Air Act [NAAQS] statutory attainment deadlines, and at reasonable cost." Under legal precedent, changes EPA makes between proposal and finalization of a rule have to be a reasonable, logical "outgrowth" of the proposed version in order to pass judicial scrutiny.

White House Meetings

EPA and OMB officials recently met virtually with environmental and public health groups to discuss the final CSAPR remand rule. One environmentalist who attended a meeting says, "We continue to hope that EPA will issue a rule that contains a full remedy for this problem based on the administrative record, including reductions from [electrical generating units, or EGUs] that have installed (but may not be running) controls and from sources beyond EGUs. We also think this rule can be an important step forward in addressing this problem, and that a good rule here can put the agency in a better position as it starts work on an interstate ozone rule for the 2015 ozone NAAQS."

The source adds, "EPA has already found that a number of states (including Pennsylvania) failed to submit SIPs for interstate transport for the 2015 standard, which triggers the requirement for EPA to do a Federal Implementation Plan (FIP). There are also a number of states that have submitted SIPs which EPA must decide whether to approve or disapprove. EPA would also be required to do a FIP for any states that have their SIPs disapproved."

CSAPR set emissions limits for states under FIPs, after many states failed to supply the required SIPs under first the 1997 ozone standard of 80 ppb, and then the tougher 2008 limit of 75ppb set by the George W Bush EPA.

The source adds, "while this is something we would like [EPA] to do, it's also something we expect them to do under the Clean Air Act for any state that doesn't submit a SIP or has their SIP disapproved."

An American Lung Association source who attended another OMB meeting says, "[W]e largely echoed our comments on the proposal urging it to be stronger. However, we noted that we did not intend for EPA to miss its court-ordered deadline."

Meanwhile, the interstate air pollution discussion will be further influenced by a possible revision to the 2015 ozone NAAQS. The Biden EPA is reviewing the widely-criticized decision by the Trump EPA to retain the 2015 limits, and may attempt a reconsideration, or fresh regular five-year review as required by the air law. States and environmental groups are suing the agency, saying the Trump rule issued in December is not sufficient to protect public health with an adequate margin of safety, and that the underlying science review was rushed and inadequate.

Should EPA tighten the ozone standards again, this would trigger another round of emissions cuts and "good neighbor" requirements for states to fulfill. -- *Stuart Parker* (**sparker@iwpnews.com**)

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/23/2021 11:53:48 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 23 -- Climatewire is ready

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CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Tue., February 23, 2021

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Message

From: EPA Press Office [noreply@cision.com]
Sent: 3/4/2021 7:04:04 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: EPA Announces $727 Million Water Infrastructure Loan to Portland Water Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
NEWS RELEASE
WWW.EPA.GOV/NEWSROOM

CONTACT: press@epa.gov

EPA Announces $727 Million Water Infrastructure Loan to Portland Water Bureau

The 45 WIFIA loans are helping finance more than $19 billion in water infrastructure projects

WASHINGTON (MARCH 4, 2021) — Today, at a virtual event with Oregon Governor Kate Brown, U.S. Senator Jeff Merkley (OR), Portland Mayor Ted Wheeler and other dignitaries, the U.S. Environmental Protection Agency (EPA) announced its largest Water Infrastructure Finance and Innovation Act (WIFIA) loan to date—a $727 million loan to the Portland Water Bureau in Portland, Oregon. The loan will help finance the Bull Run Treatment Program to improve drinking water quality and reliability for nearly 1 million people by better controlling contaminants and lead while bolstering the system's climate resiliency.

"EPA is excited to partner with Portland to announce one of the very first WIFIA loans closed by the Biden-Harris Administration and the largest WIFIA loan ever issued by the agency," **said EPA's Acting Assistant Administrator for Water Radhika Fox.** "This project and EPA's WIFIA loan illustrate how strategic partnerships can improve public health and help address the impacts of climate change, while creating jobs and saving ratepayers money."

Through WIFIA, EPA will play a key role in efforts to build back better by improving and upgrading the nation's water and wastewater infrastructure in communities across the country. With this loan closing, EPA has announced 45 WIFIA loans totaling more than $9 billion in credit assistance to help finance over $19 billion for water infrastructure projects while creating almost 47,000 jobs.

The City of Portland's Bull Run Treatment Program will construct a new filtration water treatment plant to remove the microorganism Cryptosporidium and other potential contaminants and water pipelines to connect the filtration facility to existing conduits. In addition, it will implement improved corrosion control treatment to further adjust the chemistry of Portland's water and reduce potential levels of lead at the tap. The program is designed to comply with two federal regulations, the Long Term 2 Enhanced Surface Water Treatment Rule and the Lead and Copper Rule. The project will also improve the system's resiliency to fire, landslides, major storms, and

earthquakes. Together, these projects will improve public health and water quality and increase drinking water system resiliency and reliability for nearly 1 million people.

"In Oregon, we are working to center equity as we implement a 100-year vision for strategic investments in water projects and policy, to provide a sustainable water future that addresses the impacts of climate change," **said Governor Kate Brown**. "We must be forward thinking in our investments, knowing that our systems must be ready to withstand more severe weather events in the decades to come."

"No matter where they live, every Oregonian deserves to have clean water to drink, and a modern, up-to-date system to treat their water," **said U.S. Senator for Oregon Jeff Merkley.** "That was my guiding principle when I created the WIFIA program, and it's the guiding principle behind the Bull Run Treatment Project. I remain as committed today to saving ratepayers' money and putting reliable access to clean water within reach for all Oregonians as I was eight years ago when this program became law, and look forward to watching the Bull Run Treatment Project come to fruition."

"The City of Portland, and everyone who relies on clean, safe, and reliable drinking water, are grateful to Senator Merkley for his leadership in helping Portland and other communities protect access to clean water, and to Senator Ron Wyden, Representatives Earl Blumenauer and Suzanne Bonamici, Congressman Kurt Schrader, and the Biden-Harris administration for their support of the City's efforts to invest in keeping our drinking water clean and safe," **said Portland Mayor Ted Wheeler**.

"These projects echo the wisdom of our City's founders who established Bull Run as our water source more than a century ago," **said City Commissioner Mingus Mapps**. "We are safeguarding their legacy through long-term investment to protect public health and economic growth for the century ahead."

"Using WIFIA financing for most of the construction costs of the Bull Run Treatment Projects captures significant money-saving benefits for our ratepayers," **said Portland Water Bureau Director Gabriel Solmer**. "Not only does WIFIA's low interest rate guarantee savings, but its long-term repayment schedule doesn't begin until the projects are built and ratepayers are getting the benefits of the projects as they share in the costs."

EPA's WIFIA loan will finance nearly half the project costs. The remaining project funds will come from a combination of revenue bonds and Portland Water Bureau's system funds. The WIFIA loan will save Portland Water Bureau an estimated $247.5 million compared to typical market financing. Project construction and operation are expected to create at least 4,700 jobs.

Background on WIFIA

Established by the Water Infrastructure Finance and Innovation Act of 2014, the WIFIA program is a federal loan and guarantee program administered by EPA. WIFIA's aim is to accelerate investment in the nation's water infrastructure by providing long-term, low-cost supplemental credit assistance for regionally and nationally significant projects. The WIFIA program has an active pipeline of pending applications for projects that will result in billions of dollars in water infrastructure investment and thousands of jobs.

For more information about the WIFIA program, visit https://www.epa.gov/wifia.

EPA epa.gov

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking here.
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: Enos, Kendra [Enos.Kendra@epa.gov]
Sent: 2/16/2021 9:49:37 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition 2-16-21

Daily News Clips - Afternoon Edition
February 16th, 2021

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Self-Disclosure Policy/Federal Enforcement: U.S. Environmental Protection Agency Provides Updated Guidance
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Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Western Illinois University Enter into Consent Agreement and Final Order

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Agency
Self-Disclosure Policy/Federal Enforcement: U.S. Environmental Protection Agency Provides Updated Guidance
https://www.jdsupra.com/legalnews/self-disclosure-policy-federal-9558123/

Download PDF
The United States Environmental Protection Agency ("EPA") on February 5th issued a document that:
. . . highlights interpretation and provides clarification of EPA's self-disclosed violation policies and the eDisclosure system.
The document is titled: *EPA's Audit Policy Program: Frequently Asked Questions ("Q&A")*
The document was prepared by EPA's Office of Enforcement and Compliance Assurance.
Thanks to Kelly McQueen of McQueen Law Firm who notified me of the *Q&A's* recent issuance.
EPA in 1995 issued its original policy "Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations." See 60 Fed. Reg. 66706 (Dec. 22, 1995). The policy provides that voluntary self-disclosure violations can eliminate the gravity-component of a penalty if nine conditions are met. Those conditions are spelled out in the policy.
The eDisclosure system is an online process for the agency's receiving and automatically processing violation disclosures under the disclosure policies.
The February 5th *Q&A* uses that format to address questions EPA has been asked about these programs. It supersedes other interpretive guidance and "frequently asked questions" documents that were issued in 1997 and 2007, respectively.
Examples of topics addressed in the February 5th *Q&A* include:

- Relationship of These Frequently Asked Questions (FAQs) to Prior EPA Guidance and FAQs
- Systematic Discovery
- Voluntary Discovery
- Prompt Disclosure
- Independent Discovery and Disclosure
- Correction and Remediation
- No Repeat Violations

- Other Violations Excluded
- Enforcement Policy and Practice
- Miscellaneous Issues
- Benefits of the New Owner Audit Policy
- Eligibility Requirements
- Relationship to eDisclosure System
- Enforcement Policy and Practice
- Submitting Confidential Business Information (CBI)
- Prompt Disclosure via eDisclosure
- No Repeat Violations
- Expeditious Correction Condition
- Online Portal Mechanics and Implementation
- Enforcement Practice and Policy

The Arkansas Department of Energy and Environment – Division of Environmental Quality has a similar disclosure process titled "The Environmental Self-Disclosure Incentive Policy."
A copy of the *Q&A* can be downloaded here.

Agency
EPA Seeking Small Business Review Panel Participants
https://www.natlawreview.com/article/epa-seeks-participants-small-business-review-panel-risk-management-rulemaking

Tuesday, February 16, 2021
The U.S. Environmental Protection Agency (EPA) announced on February 11, 2021, that it is inviting small businesses, governments, and not-for-profits to participate as Small Entity Representatives (SER) to provide advice and recommendations to a Small Business Advocacy Review (SBAR) Panel for asbestos, part 1: chrysotile asbestos. The Panel will focus on EPA's development of a proposed rule to address unreasonable risks identified in EPA's recently completed Toxic Substances Control Act (TSCA) risk evaluation for asbestos, part 1: chrysotile asbestos. As reported in our January 4, 2021, memorandum, of the six use categories evaluated (chlor-alkali diaphragms, sheet gaskets, other gaskets, oilfield brake blocks, aftermarket automotive brakes/linings, and other vehicle friction products), EPA states that it found that there is unreasonable risk to workers, occupational non-users (ONU), consumers, and/or bystanders within each of the six chrysotile asbestos use categories. EPA found no unreasonable risk to the environment. EPA is now moving to the risk management step in the TSCA process by working to draft regulations to protect public health from the unreasonable risks identified in the final risk evaluation.

According to EPA, the Regulatory Flexibility Act requires agencies to establish an SBAR Panel for rules that may have a significant economic impact on a substantial number of small entities. The SBAR Panel will include federal representatives from the Small Business Administration (SBA), the Office of Management and Budget (OMB), and EPA. The SBAR Panel will select SERs to provide comments on behalf of their company, community, or organization and advise the Panel on the potential impacts of the proposed rule on small entities. EPA states that it is seeking self-nominations directly from the small entities that may be subject to the rule's requirements. EPA notes that other representatives, such as trade associations that exclusively or at least primarily represent potentially regulated small entities, may also serve as SERs. Self-nominations may be submitted online and must be received by February 25, 2021.

EPA states that in addition to engaging with small businesses, it "is executing a robust outreach effort on risk management that includes formal consultations with state and local governments, tribes, and environmental justice communities." EPA notes that there will also be an open public comment period on any draft risk management regulation.

Agency
Biden Administration & ESG Regulations: SEC, DOL, EPA
https://www.natlawreview.com/article/preview-esg-regulation-under-biden-administration

Tuesday, February 16, 2021

As the Biden Administration settles in and begins to appoint its designees to key executive and administrative agencies, a series of policy objectives are coming into focus. Chief among them is expanded attention and regulation in the ESG space regarding environmental, social and governance issues at American businesses. In this post, we survey the expected direction of these initiatives at, for example, the SEC, Department of Labor, and EPA.

Securities and Exchange Commission

As has been widely reported, President Biden has nominated Gary Gensler to be the next chairman of the Securities and Exchange Commission. After becoming one of the youngest partners at a leading Wall Street investment bank, Gensler transitioned into government service as a senior official in President Clinton's Treasury Department and as the chairman of the Commodity Futures Trading Commission (CFTC) under President Obama. While at the CFTC, Gensler was the principal architect of the sprawling Dodd-Frank Act's provisions regulating the swaps markets, and he worked tirelessly to implement new CFTC rules regulating the space. He has deep experience both in the financial markets and as a regulator and currently teaches on blockchain technology, digital currencies, financial technology, and public policy at MIT.

The SEC is not new to the ESG space. To resolve protracted litigation with the Sierra Club, the SEC adopted a series of required environmental disclosures for public companies in the 1970s. The proxy statement for a public company's annual shareholder meeting is entirely a governance document, packed with disclosures about executive compensation, board governance and investor relations. Under the SEC's Rule 14a-8 regarding shareholder proposals for public companies, the SEC staff has also become well-acquainted with a range of constantly-evolving ESG topics.

However, despite adopting by a 3-2 vote of commissioners interpretive guidance on climate change disclosure in 2010, the SEC has since said relatively little on those issues. Gensler's predecessor as SEC chair, Jay Clayton, largely sidestepped the issue of mandating additional ESG reporting, preferring to rely on existing SEC disclosure standards that require the disclosure of various types of material information. Clayton's SEC did approve new disclosure rules regarding human capital matters, but those rules met with some internal opposition, with two SEC commissioners opposing the rules, because in their view, the new rule did not go far enough to advance the cause of ESG reporting.

Assuming the Senate confirms Gensler as SEC chairman, we expect the SEC to take up the issue of ESG reporting again. While there has been no formal announcement or agenda, topics that are ripe for consideration include (1) environmental disclosure rules focused on carbon footprint or greenhouse gas emissions, (2) board-level diversity disclosures, (3) disclosures of matters concerning workforce diversity, inclusion and equity, and (4) corporate political spending disclosure. SEC action on ESG reporting—in particular on climate change—would align with the European Union's upcoming amendment to its Non-Financial Reporting Directive that seeks to increase corporate disclosures of non-financial information on social and environmental impacts. Preparing disclosure rules that are comparable across industries likely will pose a challenge for the SEC. We also expect the SEC will be under political pressure to adopt rules that are more prescriptive, as opposed to those that are principles-based.

To these ends, Commissioner Allison Herren Lee, the SEC's current acting chair, recently announced the appointment of a senior advisor for climate and ESG matters. The acting SEC chair's somewhat unusual decision to name a law professor with an interest in ESG issues, as opposed to a capital markets lawyer from a major law firm, as acting director of the agency's Division of Corporation Finance—the operating unit charged with regulating public company disclosure—also foreshadows further action in the space. These announcements may have been made in consultation with Gensler in an effort to pre-position key senior staff for his arrival.

The new Congress is also likely to consider a range of bills on ESG issues over the next two years. We expect Gensler to closely monitor that process and play a leading role insofar as the SEC's jurisdiction is implicated. During the drafting of the Dodd-Frank Act, Gensler was a force of nature. He spent long hours at the Capitol, met with countless members of Congress and their staff, and he personally helped draft key provisions of the bill concerning swaps. He is clearly a skilled political operator, understands the inner workings of Congress, and is not likely to be blindsided by the adoption

of any bill regarding the SEC with which he does not agree. Conversely, he has proven to have the skills to pass a bill should he see the need to do so.

Department of Labor

It is expected that the Biden administration will encourage ESG investing – investments that, for example, assess criteria like risks associated with climate change. The prior administration finalized a rule (effective January 12, 2021) that is viewed as a barrier to ESG funds in investment plans. Under that rule, plan sponsors and other fiduciaries selecting ESG funds must "separate the legitimate use of risk-return factors from inappropriate investments that sacrifice investment return, increase costs, or assume additional investment risk to promote non-pecuniary benefits or objectives." The rule does not use the term "ESG;" it refers to pecuniary and non-pecuniary factors. In removing references to ESG, the rule recognizes the complex interplay of ESG factors in investment decisions and the term ESG is not necessarily synonymous with "non-pecuniary." President Biden ordered review of the rule and—in the short term—DOL may issue guidance clarifying that ESG factors are "pecuniary." A permissive approach with respect to consideration of ESG factors in investments aligns with President Biden's climate change and sustainability goals.

Environmental Protection Agency

The tip of the spear of the Biden administration's approach to addressing climate change will be the EPA. The EPA does not itself enact regulatory changes specific to ESG, but the EPA's regulatory actions could impact ESG-related risks (e.g., regulatory actions limiting greenhouse gas emissions). One notable area of focus will be environmental justice (EJ), which the Biden administration views as interrelated with its efforts on climate change.

Last week, the Senate Environment and Public Works Committee (EPW) voted 14-6 to advance President Biden's nomination of Michael S. Regan to run the Environmental Protection Agency. Biden's selection of Regan has signaled to many that EJ will indeed be a top priority for Biden's EPA. Regan said as much when he testified before EPW that he "will stand up for environmental justice and equity." Prior to his nomination, Regan was serving as secretary of North Carolina's Department of Environmental Quality, where he was dedicated to helping the low-income and minority communities most affected by pollution. He launched North Carolina's Environmental Justice and Equity Board Advisory Board tasked with achieving and maintaining fair and equal treatment with respect to environmental policies. Prior to joining Governor Cooper's administration, Regan was the associate vice president and southeast regional director of the Environmental Defense Fund. His career began as an EPA regulator under both the Clinton and Bush administrations, spanning a decade.

President Biden further signaled his commitment to EJ with his Climate Day Executive Orders issued on January 27th. His Executive Order on Tackling Climate Crisis at Home and Abroad establishes a White House Environmental Justice Interagency Council and a White House Environmental Justice Advisory Council (housed within EPA) to, among other things, "prioritize environmental justice and ensure a whole-of-government approach to addressing current and historical environmental injustices." These councils are tasked with carrying out Biden's campaign promise to "revise and reinvigorate" President Clinton's 1994 Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The '94 order was landmark in that it was the first major federal EJ action, but it was limited in that it only required agencies like the EPA to consider marginalized populations in their regulations and rulemaking. If confirmed, Regan and his EPA will be charged with implementing the revamped Clinton order.

The Climate Day Order takes two additional steps to prioritize EJ – it creates a "Justice40 Initiative" with the goal of delivering 40% of the overall benefits of relevant federal investments to disadvantaged communities as well as initiates the development of a Climate and Environmental Justice Screening Tool, building off the Obama-era EPA tool, EJSCREEN, created to identify communities most vulnerable to pollution. These resources may help Regan comply with the order's directive for the EPA to "strengthen enforcement of environmental violations with disproportionate impact on underserved communities" The EPA could also push the Department of Justice (DOJ) to review its supplemental environmental projects (SEP) policy to reverse the current prohibition on SEPs to utilize them in these efforts. Moreover, EJ enforcement may be further bolstered by Biden's suggestion to the DOJ to create a new Office of Environmental Justice.

With the Biden administration's focus on environmental justice, deeper thinking is likely necessary to understand the interplay with EJ principles established by EPA and other agencies and applicable human rights standards. Under the "S" prong of ESG is a focus on human rights. Companies often seek to respect international human rights standards as part of ESG protocols, notably the UN Universal Declaration of Human Rights and UN Guiding Principles on Business and Human Rights. However, the focus has often been on operations in developing countries or international supply chain-related considerations in the context of human trafficking or child labor. Given the emphasis on EJ, it may be appropriate to examine and update existing ESG protocols, in particular as applied to operations in the US in areas with a high percentage of low-income, minority, or tribal populations.

Air

Arkansas State Implementation Plan (Infrastructure/2015 Ozone NAAQS): U.S. Environmental Protection Agency Federal Register Notice Approval
https://www.jdsupra.com/legalnews/arkansas-state-implementation-plan-9810341/

The United States Environmental Protection Agency ("EPA") issued a February 12th Federal Register Notice approving elements of the State of Arkansas's State Implementation Plan ("SIP") for the 2000 Ozone (O3) National Ambient Air Quality Standard ("NAAQS"). See 86 Fed. Reg. 9290.

The Arkansas submission is stated to have addressed structural SIP requirements for implementation, maintenance, and enforcement of the 2015 O3 NAAQS.

The Clean Air Act provides that the states are primarily responsible for ensuring attainment and maintenance of each NAAQS once established by EPA. Each state is therefore required to formulate, subject to EPA approval, an Implementation Plan ("IP") SIP designed to achieve each NAAQS. The SIPs will contain the measures and actions the state proposes to attain each NAAQS.

Ground level O3 is one of the six air pollutants currently designated as a criteria air pollutant and subject to NAAQS. The O3 NAAQS was revised in 2015. This necessitated the states revising their SIPs.

Ground level O3 is an irritant gas. It is not emitted by any particular source and is, therefore, a secondary air pollutant. It is formed in the atmosphere in the presence of sunlight and heat from other precursor air pollutants including nitrogen oxide and hydrocarbons. Other precursor pollutants include VOCs. The photochemical reactions can vary because they are initiated by natural conditions such as sunlight and temperature which can obviously change. As a result, the rate of ground-level formation can differ on an hourly, daily, or seasonal basis.

States are generally given broad discretion in formulating its SIP. As a result, they are typically free to make their own choices as to how they will attain the NAAQS through their SIPs. However, the SIP and any revisions must be reviewed and approved by EPA for determination that the criteria set forth in Section 110 of the Clean Air act are met.

EPA's February 12th Federal Register Notice also notes that it is approving changes to certain existing Arkansas regulations to make them consistent with requirements for the 2015 03 NAAQS.

The preamble to the Federal Register Notice references several comments submitted to EPA addressing the Arkansas submission. The federal agency's response to such comments are provided.

A copy of the Federal Register Notice can be downloaded here.

Covid-19

EPA Approves Livinguard's "Self-disinfecting Textile," Setting the Bar in New Textile Category
https://www.prnewswire.com/news-releases/epa-approves-livinguards-self-disinfecting-textile-setting-the-bar-in-new-textile-category-301229168.html

NEWS PROVIDED BY Livinguard
Feb 16, 2021

SAN JOSE, Calif., Feb. 16, 2021 /PRNewswire/ -- Livinguard announced today that the U.S. Environmental Protection Agency (EPA) has approved the hygiene-technology company's patented self-disinfecting textile (EPA Reg N. 95700-2). Livinguard's new textile is effective against Gram negative and Gram positive bacteria to the tune of 100,000 times in 10 minutes, among the highest levels of defense against disease-causing pathogens. With patents, this is a one of a kind technology.

In addition to killing 99.999% of bacteria, Livinguard's technology continuously disinfects and is safe for humans and the environment. Furthermore, the EPA approval confirms Livinguard's self-disinfecting technology remains effective on textiles tested after 30 industrial washes, giving it broad application across many industries.

"This EPA certification is confirmation of Livinguard's patented and break-through invention, creating a new self-disinfecting-textile category, whereby the textile kills bacteria on contact, is washable and reusable," said Sanjeev Swamy, Livinguard's Founder and CEO. "Unlocking the limitless possibilities of permanent hygiene and proactively improving the health and safety of the public is at the heart of Livinguard's mission. We can now have self-disinfecting airplane seats, hospital & hotel linens, sports apparel, medical scrubs, footwear, uniforms and carpeting. Essentially, any business or organization that uses textiles can effectively utilize our self-disinfecting technology."

Livinguard's innovation pipeline continues to develop newer generation of self-disinfecting technologies.

While the latest breakthrough of the EPA approval marks a crowning achievement for the hygiene-technology company, Livinguard has already incorporated newer antimicrobial technology that it currently incorporates in a line of face masks that can be worn up to 210 times (approximately six months) and a line of gloves that can be worn up to 30 times with no compromise on safety or efficacy. Worn together, the two provide peace of mind for those seeking protection against airborne viruses and those transmitted on surfaces.

Since the onset of the COVID-19 pandemic, researchers have studied the effectiveness of Livinguard's next-generation self-disinfecting textile against the virus. Freie University (Berlin) laboratory studies concluded Livinguard's next-generation self-disinfecting textile efficiently inactivated SARS-CoV-2. In addition, studies conducted by researchers at the University of Arizona, Tucson's Water & Energy Sustainable Technology center determined the textile's efficacy against Human Coronavirus 229E. The findings from both studies can be found here.

Waste

Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Western Illinois University Enter into Consent Agreement and Final Order
https://www.jdsupra.com/legalnews/hazardous-waste-enforcement-u-s-2705415/

The United States Environmental Protection Agency ("EPA") and Western Illinois University ("Western") entered into a February 11th Consent Agreement and Final Order ("CAFO") addressing alleged violations of the Illinois Administrative Code and Resource Conservation and Recovery Act ("RCRA") addressing hazardous waste regulations. See Docket No. RCRA-05-2021-0010.

The CAFO provides that Western owns property and structures that constitute a facility ("Facility") as that term is defined under 35 Ill. Adm. Code § 720.110.

Western is stated to be the owner or operator of a Facility. The Facility is stated to consist of land and structures, other appurtenances, and improvements on the land used for treating, storage, or disposal of hazardous waste.

Western is stated to have conducted chemistry and biology research and teaching in research and class laboratories. As relevant to the time periods addressed in the CAFO, Western's collection of laboratory chemicals generated hazardous

waste, which Western is stated to have collected in laboratory bottles, 2-liter bottles, and 55-gallon containers, and stored in the hazardous waste storage areas of the Facility.

Western is further stated to have temporarily stored containers of waste collected from various laboratories, maintenance areas, and other areas, as well as discarded materials, before the material was shipped elsewhere for treatment, storage, disposal, burning or incineration.

The hazardous waste is stated to have been characterized by Western with multiple waste codes as referenced in Paragraph 23 of the CAFO. Such waste is stated to have constituted a solid waste and hazardous waste as those terms are defined under the Ill. Adm. Code. Hazardous waste which was held in containers is stated to have constituted hazardous waste storage. Further, Western is stated to have constituted a generator that was managing and generating hazardous waste at the Facility.

EPA is stated to have conducted a Compliance Evaluation Inspection ("CEI") on May 24, 2018.

The CEI is stated to have identified certain alleged violations:

Storage of hazardous waste for more than 90 days
Storage of hazardous waste in containers that were not marked with the start date of accumulation
Failure to mark or label containers holding hazardous waste clearly with the words "Hazardous Waste"
Failure to test and maintain fire protection to assure its proper operation in time of emergency
Failure to amend the contingency plan when the list of emergency coordinators had changed
Failure to provide Facility personnel with the initial required RCRA training, without applying for or obtaining a permit
A civil penalty of $30,000 is assessed.

A copy of the CAFO can be downloaded here.

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/8/2021 12:45:16 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: [WARNING: DMARC validation failed] February 8 -- Energywire is ready

Energywire -- The Transformation of the Energy Sector

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ENERGYWIRE — Mon., February 8, 2021

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Sent: 3/16/2021 3:58:50 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition 3/16/21

Daily News Clips: Morning Edition

March 16, 2021

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- Bloomberg Law, Much-Debated Climate Metric Getting Immediate Use Under Biden

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- Brett Chase, Chicago Sun-Times, City delays permit for General Iron, asks for data on cumulative impact of pollution from related businesses
- Christine Condon, Baltimore Sun, Court decision will require Maryland to regulate gaseous ammonia emissions from poultry farms

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- Maxwell Evans, Block Club Chicago, City Delays Decision On Permit For Controversial Southeast Side Metal Scrapper
- Magic Valley, Shoshone dairy fined for releasing manure into Milner-Gooding Canal

Water

- Middletown Transcript, Carper statement on EPA action to address PFAS contamination in water infrastructure
- John Gardella, The National Law Review, PFAS Drinking Water Regulations: Full Steam Ahead Under Regan

Administration

New EPA administrator: 'Science is back'

In his first interview as the nation's top environmental official, Michael Regan says he is focused on restoring morale at the agency, combatting climate change and lifting up communities burdened by pollution

Michael Regan has bold aspirations, and a long to-do list, as President Biden's newly confirmed Environmental Protection Agency administrator.
He wants to hasten the nation's shift to cleaner forms of energy, make transformational investments in communities battered by decades of pollution, and improve air and water quality around the country. But to accomplish any of that, the 44-year-old administrator said Monday, he must first help the EPA get its groove back.

"We've got a lot of work to do, starting with rebuilding the staff morale and getting all of our staff back to feeling as if they matter, their voices matter," Regan said in his first interview after being sworn in last week. "We really have to restore the scientific integrity and the utilization of data, of facts, as we move forward and make some very important decisions."

Just days into his tenure, the former North Carolina environmental official has embraced a simple mantra as he faces the daunting task of translating Biden's promises into actual policies.
"Science is back at EPA," he said.

Congress kept the EPA's budget largely stable during recent years, despite attempts by President Donald Trump to make deep cuts. Even so, a Washington Post analysis showed that during the first 18 months of the Trump administration, nearly 1,600 workers left the EPA, while fewer than 400 were hired. That exodus shrank the agency's workforce to 14,172, a level not seen since the Reagan administration.

After being sworn in, Regan wrote a memo to EPA career staffers calling their work the "heart" of any economic recovery under Biden. Regan himself was once a career EPA employee, working there for more than a decade under both the Clinton and George W. Bush administrations before returning to North Carolina as southeast regional director for the Environmental Defense Fund, an advocacy group.

On Monday, Regan said he wouldn't rule out the return of experts who fled the EPA as part of a hiring push under Biden.

"I'm under the assumption that there are a lot of people that walked out of EPA that would be extremely qualified for some of the positions we've advertised, and we welcome their return if they meet the criteria," he said. "But that doesn't exclude new and young scientists and engineers and data analysts and lawyers who have been longing to join a credible agency."

Regan, who last week easily won confirmation by the Senate in a 66-to-34 vote, declined to offer specifics about which policies the EPA will pursue in the coming months. But he made clear that the agency already is beginning to revisit some of the Trump administration's most consequential regulatory rollbacks.

Tracking Biden's environmental actions
Regan vowed to use the agency's considerable authority to tackle climate change on multiple fronts.

He said the agency will take another look at the Trump administration's rollback of tailpipe emissions rules for new cars and trucks, as well as his predecessors' efforts to revoke California's long-standing authority to set its own fuel-efficiency standards for automobiles. That waiver had been granted under the Clean Air Act by previous administrations.

"I'm definitely a fan of statutory authority, and states' rights and autonomy," Regan said, adding, "The transportation sector is very important in our greenhouse gas goals."

Regan said a federal court's recent decision to vacate the Trump administration's replacement of the Obama-era Clean Power Plan gives his team a "clean slate" to regulate the climate-warming pollution that results from burning coal and gas for electricity.

The Trump administration also maintained air quality standards for ozone and other pollutants that are less stringent than what many experts have recommended to protect public health. Regan said he is open to toughening those standards.

"We're taking a look at how we enhance some decisions that we believe are not as protective as we think they should be," he said.

Regan also indicated he will look closely at a ubiquitous class of chemicals known as polyfluoroalkyl and perfluoroalkyl substances, or PFAS, found in communities nationwide and linked to an array of health effects.

Last month, the EPA yanked from its website a toxicity assessment of one of these so-called forever chemicals, which persist for years in the environment. Regan said the study was "compromised by political interference."

"That's just one example of many decisions that were made by the previous administration that weren't guided by the scientific evidence nor the recommendations made by our career staff," he added.
He also said his staff is evaluating the agency's response to the coronavirus pandemic under Trump. Former EPA administrator Andrew Wheeler temporarily waived some enforcement last spring, citing practical constraints during shutdowns.

Regan said the agency's ability to permit regulated industries to stop monitoring hazardous emissions during emergencies ought to be used "sparingly."
"It's not as if it's a blank check," he said.

Senate confirms Michael Regan to lead EPA
Regan returns to Washington with a reputation for seeking buy-in from all sides of environmental disputes, including industry. But Republicans are increasingly agitated with Biden's climate plan, arguing that curtailing oil and gas drilling and pipeline construction will kill jobs. Some Republican attorneys general have already warned they will challenge actions they see as "unauthorized and unlawful" in court.

"Let me be very clear, I really liked meeting and getting to know Michael Regan," Sen. Shelley Moore Capito (R-W.Va.) said last week before voting against Regan's confirmation. "He is a dedicated public servant and an honest man."

"But this vote is not based on what Mr. Regan might do if he had his say," she added. "This vote is about confirming someone to execute President Biden's agenda, which Mr. Regan said he would faithfully do. And I cannot support that agenda."

Climate scientists, meanwhile, warn the United States and other countries have precious little time to deeply cut greenhouse gas emissions to forestall catastrophic, irreversible levels of global warming.
Even as he embarks on his new, high-profile role, Regan already has in mind how he would like his tenure to play out.

"I hope that EPA will be remembered in four years for righting the ship and really making significant strides on lowering the emissions from greenhouse gases, protecting our water quality, doing it in a way where we're creating lots of jobs in a fair and equitable manner," he said.

"If we can right this ship and start to achieve those goals and do it in a way with a rising tide for all communities in this country, I think we'll be off to a good start."

New E.P.A. Head Says Agency Has Climate Regulations Underway

WASHINGTON — Michael S. Regan, the new administrator of the Environmental Protection Agency, confirmed on Monday that the agency is preparing new regulations on the electricity sector in an effort to meet President Biden's aggressive climate change goals.

Mr. Regan said his immediate priorities for the E.P.A. are "rebuilding the morale" at the agency, restoring the role of science — and scientists — in developing air and water rules, and ensuring new environmental policies do not further hurt communities already disproportionately affected by toxic sites.

He was not specific on the precise new policies E.P.A. will undertake to rein in planet-warming carbon dioxide emissions, or when they will be made public. But, Mr. Regan said, the agency will "absolutely" develop new rules for power plants and automobiles and that E.P.A. staff is currently working on those plans.

"We'll be hearing from staff very soon about the particulars," Mr. Regan said.

Reducing carbon emissions from power plants and vehicles, which are the largest sources of planet-warming pollution in the United States, is critical to meeting Mr. Biden's goal of no net carbon emissions by 2050.

Unless Congress passes legislation — an unlikely scenario — it will be up to the E.P.A. to create new regulations for both sectors. The Obama administration sought to reshape the electric power sector by pushing utilities away from coal and toward electricity generated by natural gas, solar, wind and other lower or no-carbon sources. That rule, the Clean Power Plan, was halted by the Supreme Court.

But the Trump administration's efforts ran into trouble as well. The Clean Power Plan replacement — a far weaker rule that only asked utilities to make modest efficiency modifications at individual power plants — was struck down entirely by a federal court earlier this year.

That decision, by the U.S. Court of Appeals for the District of Columbia, affirmed that the E.P.A. has the authority to regulate carbon dioxide from the power sector. Mr. Regan said he intends to take advantage of that.

"We're starting with a clean slate but we're not starting from scratch," he said. In addition, Mr. Regan noted, market forces have changed. Coal-burning power plants already are retiring at a rapid pace, and according to the International Energy Agency, renewables could surpass coal as the world's largest source of power by 2025. "We're not looking backward; we're looking forward, and I'm really excited about that," he said.

Republicans from fossil fuel states have indicated they are ready to fight any broad regulations that target coal. Senator Shelley Moore Capito of West Virginia, who opposed Mr. Regan's confirmation, said she did so because "he did not commit to a different policy agenda than that of the Obama administration" — which, she said, "absolutely devastated my state and other energy-producing states."

The agency is under time pressure. President Biden has scheduled a global climate change summit for April 22, where the United States will announce a new national emissions target. Foreign leaders also will be expecting the administration to prove to the world how it plans to meet the goals it lays out.

Mr. Regan said it was too soon to promise there will be proposed regulations released by the time of the summit. But, he said, "I do believe that we will have the scientific credibility to support the direction the president wants to go."

For now, Mr. Regan said, he is focused on staff morale that suffered under a Trump administration that often ignored career scientists and scientific findings. He pointed specifically to the Trump administration's approach to climate change as well as per- and polyfluoroalkyl substances, or PFAS, a toxic family of substances found in common household products.

"Morale is not where we want it to be, not nearly where we want it to be. We're going to spend some time there," he said.

He also said he intends to appoint an environmental justice adviser to revamp the agency's approach to civil rights and help develop deeper relationships with communities that most closely experience the burdens of pollution and impacts of climate change. "That's going to be a significant priority," he said.

Mr. Regan had kind words for his immediate predecessor, Andrew Wheeler, and said that Mr. Wheeler left "a very kind letter" on his desk in the administrator's office.

Mr. Regan, who was sworn in on Friday, said he's still learning his way around the building. One place he said he's not likely to have much use for, though, is the soundproof phone booth that Scott Pruitt, President Donald J. Trump's first E.P.A. administrator, had installed at a taxpayer cost of $43,000.

"I don't even know where it is or what it looks like. I guess the first thing I should do is take a look at it," Mr. Regan said, adding, "I've been using the phone on my desk."

Michael Regan says the E.P.A. is already working on new rules to control planet-warming emissions from cars and power plants.

Biofuels

Washington Insider – Tuesday, Considering Future Economic Policies

DTN's Washington Insider

Here's a quick monitor of Washington farm and trade policy issues from DTN's well-placed observer.

Focus On Supreme Court In April Relative To Biofuels Policy

The U.S. Supreme Court April 27 will hear refiners' appeal of the Tenth Circuit Court ruling that invalidated three small refinery exemptions (SREs). The decision relates to the refiners' appeal of the ruling that said in order to be granted SREs, the refiners needed to have obtained them continuously from 2010-forward.

EPA recently came out in favor of the court ruling and said that it will not act on the pending SREs until after the Supreme Court issues its decision on the matter.

EPA data as of late-February showed 20 so-called "gap year" SREs were pending covering 2011-2018 compliance years, with another 30 pending for the 2019 compliance year and 16 for the 2020 compliance year.

Expectations are if the Supreme Court sides with the Tenth Circuit ruling, it would dramatically reduce the granting of SREs moving forward.

Vote On Tai As USTR Expected This Week

The U.S. Senate will finally vote on Katherine Tai to be the U.S. Trade Representative (USTR).

Her approval has never been in doubt, but it still took longer than most thought for her confirmation vote which should occur sometime this week as Senate Majority Leader Chuck Schumer, D-N.Y., signaled late last week in filing cloture on the nomination.

Some believe this is also why the Biden administration has been less public about their trade policy views.

Washington Insider: Considering Future Economic Policies

Bloomberg is reporting this week that the new administration is considering the first major federal tax hike since 1993 as it works to design its long-term economic program.

Unlike the $1.9 trillion COVID-19 stimulus act, the next initiative, which is expected to be even bigger, won't rely just on government debt as a funding source. In fact, it has been increasingly clear for some time that tax hikes will be a component. Treasury Secretary Janet Yellen has said at least part of the next bill will have to be paid for. Key advisers are now making preparations for a package of measures that could include an increase in both the corporate tax rate and the individual rate for high earners.

The result is increasing pressure on officials like Federal Reserve Chair Jerome Powell who will be required to "defend his ultra-easy monetary policy outlook amid a quickening economic recovery that's ignited fears of inflation," Bloomberg says.

The Fed is wrapping up a two-day policy meeting this week, almost exactly 12 months after slashing interest rates to nearly zero as COVID-19 spread. It will publish its policy statement and quarterly forecasts at midweek and the chair is expected to hold a press conference the same day.

A lot has changed in the three months since the Fed last published economic projections, Bloomberg notes, including passage of the massive fiscal stimulus and accelerating vaccinations. Powell's spent recent weeks trying to dispel premonitions about impending tightening and he'll be asked to reconcile a likely upgrade to the Fed's economic outlook and its projections that are expected to show zero interest rates through 2023.

"I think this is the kind of meeting the Fed would rather not have," said Ethan Harris, Bank of America Corp.'s head of global economic research. "the big problem that they face is that they have to raise their forecasts — the GDP forecast they have right now is so stale it could be carbon-dated."

The Fed last updated its projections in mid-December before broad distribution of vaccines and almost $3 trillion in fiscal aid was signed into law.

Economists surveyed by Bloomberg expect Fed officials to upgrade their 2021 economic-growth forecast to a median 5.8% from 4.2%. That's still below some of the most bullish Wall Street estimates, the report said.

Goldman Sachs Group Inc. is calling for a 7.7% increase in the same period and 11 other firms tracked by Bloomberg say growth will be at or above 7% at the end of the year.

The better outlook has raised market expectations for future inflation and prompted investors to sell bonds, pushing up yields and renewing skepticism that Powell can keep rates low for as long as the Fed has indicated.

But the Fed chief is sticking to his guns, arguing that the economy has a long way to go in fully getting back to where it was before the pandemic. He's reiterated that the central bank's new policy strategy means it will focus more intently on returning to maximum employment, and will judge that in a much broader way than before.

Although 75% of economists in Bloomberg's recent survey said the Fed will have to raise rates "before long," they didn't see a change to the Fed's median 2023 projection at this month's meeting. Interest-rate futures, however, are pricing in about three 25 basis point rate increases before the end of that year.

Recovery optimism reflects a sense that activity will bounce back quickly in the second half of the year. Hiring has already picked up, with more than half a million jobs created in the first two months of 2021 and some see that improvement accelerating. But as Powell pointed out earlier this month, nearly 10 million Americans remain jobless. The Black unemployment rate rose to a staggering 9.9% last month.

Inflation also hasn't reflected much of a recovery yet. Stripping out more-volatile food and energy prices, the consumer price index edged up 1.3% in February, far from the Fed's 2% target. Economists expect bigger gains in the coming months, both due to transitory pandemic-related effects and things like higher gas prices and increased spending on leisure activities following a year of lockdowns.

Powell last year unveiled a new policy framework, saying they'll allow inflation to overshoot 2% after periods below it. That'll likely mean the Fed will keep policy accommodative for longer.

But if the quick and powerful recovery that bond traders are betting on materializes, it could cause a more disorderly sell off in Treasuries, threatening stable financial conditions, which the Fed wants to avoid.

In the meantime, Powell and his colleagues have indicated they're not worried about the recent rise in Treasury yields, saying that as long as such price moves are driven by the right reasons — such as the stronger economic outlook — it's not a concern.

So, we will see. Clearly, the new administration has large ambitions for new programs leading many to look for evidence of new inflation — a potential development producers should monitor closely as the season progresses, Washington Insider believes.

Climate Change

Much-Debated Climate Metric Getting Immediate Use Under Biden

March 16, 2021 6:01 AM

- EPA to move swiftly in rulemaking
- Air regulations likely to be priorities

The Biden administration isn't awaiting a final price tag on a final greenhouse gas assessment metric before it starts working on new regulations—even though the final number could support even tougher regulation.

The implications are far-reaching for the administration's efforts to address climate change, affecting everything from vehicle emission standards to permits for oil, coal, and gas projects.

Administration officials—in a move that 12 states swiftly challenged in court—raised the social cost of carbon to $51 per ton in late February, replacing a Trump-era method that was as low as $1. The new figure will be used on an interim basis while an interagency working group readies a more complete update expected in early 2022.

The social cost of carbon is an analytical tool used by many agencies to calculate the impacts of their actions by putting a price on emissions. A higher dollar figure makes it harder for agencies to issue new regulations that are more permissive to industry because it shows more starkly the benefits of how tough rules outweigh the costs.

The Environmental Protection Agency "intends to use these interim values for any rulemaking activities until final values become available," an agency spokeswoman said.

A higher value for the social cost of carbon would mean agencies could write more stringent rules that clamp down harder on emissions. But the smart play is for agencies to start now and include language in their proposed rule that call for comments on available options should the social cost of carbon rise, according to Cary Coglianese, a regulatory law professor at the University of Pennsylvania Law School.

"What you need to do is show that your final rule is a logical outgrowth of your proposed rule," Coglianese said.

'It Takes Time'

Another benefit to moving quickly is that the clock is already ticking on President Joe Biden's term, and there's no guarantee that agencies could finalize their rules before 2024, said Richard Newell, who co-chaired a 2017 National Academy of Sciences study that the Biden administration is using to develop the social cost of carbon.

"It takes time to develop regulations," said Newell, now president of the think tank Resources for the Future.

Agencies could move now by doing sensitivity analyses that account for a range of variables, Newell said. Building that work into a regulatory proposal early on could safeguard against claims that the agency is acting arbitrarily if it wants to revise its work when a new estimate for the cost of carbon is released, he said.

Yet another reason for agencies to act swiftly is that the urgency of climate change demands it, said Amit Narang, a regulatory policy expert with the watchdog group Public Citizen.

Susan Dudley, who headed the White House Office of Information and Regulatory Affairs under President George W. Bush, agreed that agencies will start using the new social cost of carbon right away. She said it is "based on methodology that previously received notice and comment" during the Obama administration.

Aggressive Air Action

EPA air regulations rank among the first targets. Pressure from early promises and the potential for tough battles in the courts mean Biden is under a time crunch, and the rollout of a beefier carbon cost is an important tool.

Lengthy legal challenges that have plagued the EPA across administrations put "real pressure" on the agency to move fast, said Hana Vizcarra, a staff attorney with the Harvard Law School's Environmental & Energy Law Program.

That's especially true, she said, when another four years in office isn't guaranteed.

"They want to see these things reach conclusion, they want to see courts actually consider the issues and make decisions, because that's the only way anything will be lasting," Vizcarra said.

Two of Biden's articulated air and climate priorities—cutting emissions from methane and vehicles—are "intriguing wild cards" moving forward, according to University of Michigan professor and Brookings Institution fellow Barry Rabe.

"Over-arching the Biden administration is how far they want to go through regulatory action under the Clean Air Act, as opposed to a build-back-better kind of a statute," Rabe said. "Both of these are potentially tailor made, certainly, for that social cost of carbon application," he said.

The Trump administration scaled back on oil and gas sector methane limits by letting emitters forgo certain leak monitoring requirements.

On cars, Trump's EPA slashed vehicle efficiency requirements and rescinded a long-standing California waiver that allowed the state to set more stringent clean car rules that other states could adopt. Environmental groups and states sued over both, claiming the rollbacks skirted around administrative procedures and endangered the public's health.

In addition to the new carbon price tag, regulatory uncertainty in the energy and vehicle manufacturing sectors also could influence rulemaking, Rabe said.

"I think both the vehicle sector and the oil and gas sector further test the question of whether or not there are deep divides in industry that might create some opportunities for the Biden administration," he said.

Fossil Fuel Permitting

At Interior, the Biden administration is expected to use the social cost of carbon to deny some permits for oil, gas, and coal mining projects based on their downstream carbon emissions, said Dan Farber, faculty director of the Center for Law, Energy, and Environment at the University of California-Berkeley.

Interior also could impose a carbon-offset requirement for permit renewals for existing high-emissions developments on federal lands, Farber said.

The agency will use the social cost of carbon as part of the rulemaking process "as the law requires," spokeswoman Melissa Schwartz said.

The National Environmental Policy Act requires full disclosure of the social cost of carbon associated with any major project on federal lands but not a rigorous cost-benefit analysis, said Jason Schwartz, legal director for the Institute for Policy Integrity at NYU. That could force Interior officials to make a judgment call, he said.

"Then it'll be up to the agency officials to figure out, does this impact call for some mitigation under NEPA?" Schwartz said. "Or does it mean the no-action alternative?"

Interior could use the social cost of carbon to justify adjusting state royalty rates for oil, gas and coal development based on their environmental and social impacts, he said.

And the consideration of a project's social cost of carbon could extend well beyond fossil fuel development.

"In terms of surprising applications, I could imagine efforts to take into account the impacts of activities such as logging and grazing practices on carbon retention by soils," Farber said. "The question would be where there's a sufficient scientific basis for estimating the impacts."

Congress Engaged

Congressional Republicans who fought the Obama administration's social cost of carbon efforts are already pushing back.

Sen. James Lankford (R-Okla.) filed amendments—which the Senate didn't take up—to block the use of the carbon accounting during February debate over the fiscal 2021 budget resolution (S. Con. Res. 5), including one to bar its use unless China made significant cuts in its own greenhouse gas emissions (S. Amdt. 423). Lankford's office didn't immediately respond to questions about his future plans to target the issue.

Democrats have drafted bills that would set a carbon price on emissions, including the Methane Emissions Reduction Act of 2021 (S. 645) introduced March 9 by Sens. Sheldon Whitehouse (D-R.I.), Cory Booker (D-N.J.), and Brian Schatz (D-Hawaii).

It would direct the Treasury Department to assess an $1,800-per-ton fee on methane emissions starting in 2023 but allow producers to opt out if they demonstrate they took early action with verifiable data.

—With assistance from Ellen M. Gilmer.

Environment

Southeast Michigan to Benefit from $1.6 Million in Conservation Grants That Will Improve Community and Habitat Resilience

Public-private partnership funds seven projects to reduce stormwater impact, improve water quality, enhance habitat and increase accessibility and usability of public green space

March 16, 2021 10:30 ET | **Source:** National Fish and Wildlife Foundation

DETROIT, March 16, 2021 (GLOBE NEWSWIRE) -- **Southeast Michigan Resilience Fund** partners today announced seven projects selected to receive $1.6 million in grant funding to benefit communities and wildlife habitats in southeast Michigan. The grants awarded by the National Fish and Wildlife Foundation (NFWF) will leverage $1.4 million in matching contributions to generate a total conservation impact of more than $3 million.

These investments will strengthen regional resilience for communities by installing green infrastructure, increasing urban tree canopy, and restoring riverbank and floodplain habitat. Additionally, projects will restore critical habitat for wildlife including monarch butterflies and migratory birds, while creating and enhancing public access and improving water quality.

The projects supported by these grants will:

- Add 3.3 million gallons of stormwater storage
- Plant more than 650 trees for increased stormwater storage and improved habitat
- Add 44 instream habitat structures
- Help restore the quality and connectivity of the region's unique habitats

- Improve quality of life for residents by increasing public access to natural areas and parks for local communities through six new access points

"This public-private partnership is committed to investing in projects that deliver multiple benefits for the people and wildlife that call southeast Michigan home," said Jeff Trandahl, executive director and CEO of NFWF. "The grants awarded today represent the third year of investments made by the Southeast Michigan Resilience Fund and demonstrate the Fund's ability to deliver ecological and community resilience benefits at a regional level."

Seven corporate, foundation and government funding partners joined NFWF to create the Southeast Michigan Resilience Fund. The fund is supported by contributions from:

- Cleveland-Cliffs
- The Fred A. and Barbara M. Erb Family Foundation
- The Kresge Foundation
- The Ralph C. Wilson, Jr. Foundation
- The U.S. Environmental Protection Agency
- The U.S. Fish and Wildlife Service
- The U.S. Forest Service

Southeast Michigan Resilience Fund 2021 grant recipients include:

- **Huron-Clinton Metropolitan Authority,** to improve habitat along the Huron River at Willow Metropark in Wayne County by restoring eroded river bank, in-stream, floodplain and native prairie habitat.
- **City of Detroit**, to install a bioretention project at Patton Park, a 93-acre, city-owned park located on the border of Detroit and Dearborn, to capture runoff.
- **Oakland County Parks and Recreation**, to remove the failing Davisburg Mill Pond Dam to restore the natural stream channel and adjacent wetlands.
- **Chandler Park Conservancy**, to install green stormwater infrastructure in Chandler Park, Detroit to reduce combined sewer overflows and flooding to adjacent community property owners.
- **Detroit Future City**, to restore habitat and create public green space along 1.3 acres of vacant land in East Poletown, Detroit by removing invasive species, adding biodiversity through planting of native trees and shrubs, and enhancing educational public space.
- **Friends of the Rouge**, to build more than 7,000-square-feet of green stormwater infrastructure by planting trees, installing rain gardens and removing impervious surfaces.
- **City of Hamtramck**, to plant at least 300 trees throughout the city of Hamtramck and strengthen partnerships built with the local community.

"As we look to improve the quality of life in southeast Michigan by investing in parks and trails, it is also essential to support green infrastructure and resilient solutions to the critical challenges posed by climate change," said JJ Tighe, Parks & Trails Initiative director for the Ralph C. Wilson, Jr. Foundation. "We're thankful for the collaboration across both public and private partners to solve for these challenges with local and community-based solutions."

"Our foundation is delighted to participate in this wonderful collaborative effort, which enables us to leverage multiple contributions for maximum group impact," said Neil Hawkins, president of the Fred A. and Barbara M. Erb Family Foundation. "It's a win-win opportunity for the health of the Great Lakes ecosystem and for the many people whose well-being depends on it."

"The Southeast Michigan Resilience Fund continues to exemplify the strength of public-private partnerships," said Chris Korleski, director of the U.S. Environmental Protection Agency's Great Lakes National Program Office. "The fund brings together federal and non-governmental partners that leverage Great Lakes Restoration Initiative funds to deliver on-the-ground projects in southeast Michigan communities, including communities that have historically been underrepresented and underserved."

"Flooding is a major concern for urban communities," said Lois R. DeBacker, managing director of Kresge's Environment Program. "Climate change directly impacts water supply, and changes in precipitation are placing stress on the built and natural systems that provide fresh water, manage stormwater and treat wastewater. One of our primary goals at Kresge is helping cities implement climate change mitigation and adaptation approaches that advance racial and economic equity. The efforts being supported by the Southeast Michigan Resilience Fund to install green infrastructure, increase urban tree canopies, and restore riverbank and floodplain habitats will help communities that are disproportionately vulnerable to urban flooding and extreme rainfall become better equipped to reduce and prepare for the impacts of climate change."

To learn more about the Southeast Michigan Resilience Fund and the seven projects announced today, please visit nfwf.org/semichigan.

Since 2018, Southeast Michigan Resilience Fund has awarded 21 grants worth more than $4.5 million and leveraged an additional $5.8 million in matching contributions, generating a total conservation investment of more than $10.3 million.

Pollution

An 'Eco-friendly' Danish Company Is Outsourcing Pollution to West Virginia, Locals Say

March 16, 2021 8:00 AM by Austyn Gaffney

Residents of Jefferson County say ROCKWOOL never would have attempted such a high-emission factory across from an elementary school in eco-conscious Denmark.

JEFFERSON COUNTY, W.Va. — Tracy Danzey wheeled herself through Copenhagen Airport with aching arms, crutches crisscrossing her lap, hands covered in blisters, her left foot bleeding. In November 2019, she had just finished a two-week, 100-kilometer march across Denmark to deliver an important message from the people of West Virginia: ROCKWOOL International, a keystone of Denmark's green-building industry, was outsourcing its pollution.

"It wasn't an enjoyable hike," Danzey, 41, recalls a year later from her home in Shepherdstown, W.Va. In 2005, Danzey, a nurse, lost her right leg and hip to a rare form of bone cancer. She also suffers from thyroid disease. Danzey is intimately familiar with how pollution can destroy a community's health: She grew up next to a DuPont chemical factory in Parkersburg, W.Va., which produced a Teflon-related chemical linked to kidney cancer, testicular cancer, and thyroid diseases like Danzey's. The class-action lawsuit against DuPont spanned nearly two decades and led to a $670 million settlement in 2017. (The story was given the Hollywood treatment in the 2019 film *Dark Waters*.)

So Danzey was paying attention when ROCKWOOL, a producer of mineral wool insulation, broke ground for its new facility in Ranson, W.Va.—right across from an elementary school—in the summer of 2018. (Ranson is less than 7 miles from Danzey's home, just north of the Washington, D.C., metro area.) Mineral wool plants give off carbon dioxide and hazardous chemicals as volcanic rocks and slag are melted down in large furnaces, spun into wool, bound, cured, cooled, and bagged. ROCKWOOL says it is a "net carbon negative company" because its insulation saves "100 times the energy consumed and (carbon dioxide) emitted in its production." Local communities bear the brunt of its emissions.

ROCKWOOL had actually started talks with West Virginia officials in 2017, under the name "Project Shuttle," but the community says it was kept in the dark. (On the West Virginia Department of Environmental Protection [WVDEP] website, ROCKWOOL says it used the code name to protect proprietary information and because the project hadn't been approved.)

When residents finally found out, they started making noise with elected officials and WVDEP. They hired scientists, who raised concerns about ROCKWOOL's air quality and stormwater permits, and suggested the plant could pollute the groundwater. Community members contend ROCKWOOL never would have attempted such a high-emission factory across from an elementary school in eco-conscious Denmark, fearing public outcry. Indeed, ROCKWOOL has chosen (or transitioned to) a lower-carbon and cleaner production process in plants in Norway and France—a process that is more expensive.

Jefferson County is the wealthiest part of West Virginia. Its residents have money, legal connections, and time—all valuable resources in opposing industry—which are not available to many of their neighbors: West Virginia has the nation's fourth-highest poverty level. Hundreds united under various groups, such as West Virginians for Sustainable Development and Jefferson County Foundation (JCF), to write streams of public comments, hire lawyers and lobby Congress, file four legal challenges to ROCKWOOL's permits and subsidies, and organize demonstrations.

The non-violent demonstrations escalated in February 2019, when 11 were arrested for occupying the office of Sen. Joe Manchin (D-W.Va.) after he canceled a town hall about ROCKWOOL. In March 2019, 20 were arrested for blocking the gate to the Danish Embassy in Washington. In May 2019, 24 were arrested for blocking the entrance to the ROCKWOOL construction site. An international boycott of ROCKWOOL (until the corporation abandons the factory and commits to climate justice practices in future projects) has received support from green groups in the United States and Denmark, along with high-profile activists Bill McKibben, Naomi Klein, and Mark Ruffalo.

But in West Virginia, the demonstrations have gained little traction. The state has long led the country in coal jobs and is known for being industry-friendly. Danzey and many of her neighbors believe the West Virginia location was chosen specifically because of this reputation.

And under former President Donald Trump, the Environmental Protection Agency (EPA) was focused on deregulation (the *New York Times* compiled more than 100 environmental deregulatory actions)—making sympathy for their cause unlikely at the federal level. The community groups petitioned the EPA but received no assistance—the EPA did not respond except to say it couldn't "comment on an ongoing or active litigation." (In court filings, ROCKWOOL has disputed all the claims in the legal challenges.) The residents hope the Biden administration will be different.

In an email, ROCKWOOL's vice president of communications, Michael Zarin, said ROCKWOOL would not be able to respond to detailed questions from VICE World News and *In These Times*, that they have been "amply addressed" in the past, and referred to its website and Facebook page. In a fact sheet available on its website, ROCKWOOL maintains it is "following all local, state, and federal permitting requirements and regulations" in Ranson. "We're passionate about respecting the environment and are continuously working to improve the sustainability of our operations so that we leave the smallest footprint possible," another fact sheet says.

In an interview with the *Washington Post*, Trent Ogilvie, the president of ROCKWOOL's North American business unit, said, "We understand people want to ensure the air they breathe and water they drink are clean and healthy. We certainly would not be in business very long if our operation put air or water at risk." To the question of whether or not the facility could be built in Denmark, the fact sheet says, "Yes... both in terms of its proximity to schools and residential area and its emissions limits." Zarin says one of two ROCKWOOL factories in Denmark is "essentially the

prototype for the Jefferson County facility" and is located near a European Union-designated nature reserve area; it was built in 1977.

Danzey, from the front porch of her one-story hilltop home, looks across her neighborhood to the school where kids are running around in their homeschool pandemic pods. "It was eye-opening for me," she says of her Denmark trip. "I haven't spent a lot of time in other countries where people feel their voices are heard... It hurt to beg (the Danish) government to protect me in my own country."

Top 1% of polluters

ROCKWOOL's factory in Ranson is slated to open in months. Construction mock-ups show off its minimalist aesthetic, making it look like a big, white, industrial IKEA. The focus on its sleek facade hides the fact it will stand across the street from North Jefferson Elementary School, one of six schools and daycares within a 2-mile radius that, together, serve one-third of the children in Jefferson County (a chain of small towns that includes Ranson, Shepherdstown, Charles Town, and Harpers Ferry).

Behind the elementary school sits Fox Glen, a neighborhood of one-story houses and mobile homes, one of the poorest parts of Jefferson County. Every Friday, in solidarity with youth climate strikers, activists from across the county protest at the entry of the new construction. While ROCKWOOL has 46 manufacturing plants in 39 countries across Europe, Asia, and North America, the Ranson factory will be only the second ROCKWOOL factory in the United States.

According to Zarin, the regulations governing mineral wool production in the United States "are geared specifically to protect the health of sensitive populations including children, the elderly, and asthmatics." Zarin says the environmental standards governing ROCKWOOL's production are theoretical "worst-case" conditions, that "ROCKWOOL's emissions would be well below the already stringent standards."

In 2017, ROCKWOOL invited Jane Tabb, a Jefferson County commissioner and dairy farmer, to tour its other U.S. facility, in Byhalia, Miss. Initially, Tabb was impressed. She cited the jobs the new factory would bring (ROCKWOOL says it's creating 150 new jobs with salaries ranging from $35,000 to $85,000) and endorsed its construction, which is atop a former apple orchard.

But the orchard was essentially an undeveloped field, so every aspect of the project had to be permitted from scratch—for zoning, gas and water/sewer service, roads, air emissions, wastewater, and other elements. When Tabb and other residents started looking into the permits, she says they discovered errors: A stormwater permit failed to take into account the location of private wells, for example. An air permit did not reflect a change in fuel sources. ROCKWOOL did not respond to specific questions about the site or the permits.

Out of her own pocket, Tabb hired air quality expert Patrick Campbell to independently review ROCKWOOL's 2017 air quality permit, which was approved by WVDEP before residents got wind of the project. The permit notes the factory would be a source of nine different types of air pollution, including known carcinogens formaldehyde and benzene.

Campbell, who is associated with the National Oceanic and Atmospheric Administration, concluded the air quality permit is "deficient." It compares Ranson with an inappropriate site—in Garrett County, Md.—to make its conclusions, in violation of EPA guidelines. Garrett County is more than 60 miles away at a much higher elevation than Ranson, with dense forests and different wind patterns. Because of Ranson's calm winds, emissions might settle instead of blowing away.

Jeffrey Landis, spokesperson for EPA Region 3 (which covers the Mid-Atlantic), tells VICE World News and *In These Times*, "WVDEP addressed all relevant federal and state requirements, including addressing (EPA) comments, before issuing the final (Clean Air) permit to ROCKWOOL."

WVDEP did not respond to multiple requests for comment, but former WVDEP secretary (and former coal executive) Austin Caperton defended the air permit in a 2018 statement: "Our scientists and engineers with the WVDEP have reviewed all available data and have assured me there is virtually no other state in America that would have denied this permit."

The ROCKWOOL factory also includes two 21-story smokestacks that would annually emit 471 tons of volatile organic compounds (VOCs)—human-made chemicals known to contaminate groundwater—making the facility the state's second-largest source of VOCs, just below a Chemours chemical plant. In addition to cancer, these VOCs can cause headaches, dizziness, rashes, shortness of breath, and eye, skin, ear, and throat irritation. According to the EPA's 2017 National Emissions Inventory, of approximately 70,000 U.S. facilities regulated for VOCs, ROCKWOOL would be in the top 1 percent of polluters, behind international airports, large paper mills, and petrochemical plants. ROCKWOOL did not respond to questions about the plant being in the top 1 percent of polluters.

To power the new factory, ROCKWOOL planned to burn at least 30,000 tons of coal and more than 4 billion gallons of fracked gas every year, making residents wonder why the state would support a factory so heavily reliant on fossil fuels when global trends show the age of oil is over. After local pressure, in March 2020, ROCKWOOL told WVDEP it was removing coal as a main fuel source for melting stone—easy enough, as the air quality permit did not specify how much coal would be used for this specific task. ROCKWOOL claimed the change would result in a "reduction in regulated air pollutants" but still retained its initial permit "in the event operations require reverting back to coal," which worries residents.

"We all agree using natural gas is an improvement over burning coal," says Susan April, an air quality expert for JCF. But by not redoing the permit, April says, ROCKWOOL is not being held to the proper standards. "Right now, they sort of have a big bubble over their plant that allows it to pollute a lot more."

Destroying the Environment for Coal

And while natural gas emits roughly half the carbon of coal, its use still creates greenhouse gas emissions. Fracking, the drilling process to capture the gas, also comes with a well-documented history of air and water pollution.

According to Zarin, moving from coal to natural gas comes from "years of research into the highly advanced, fuel-flexible melting technology that ROCKWOOL is deploying in Jefferson County." To ROCKWOOL's knowledge, "no one else in our industry has this capability," which "will reduce (carbon dioxide) emissions from the melting process by around 30 percent," Zarin says. He did not respond to questions about why ROCKWOOL did not apply for a new permit.

According to JCF, ROCKWOOL could instead use better pollution control technologies exclusive to natural gas. Or it could transition to an electric furnace, like the one ROCKWOOL uses in Norway, which could reduce carbon emissions by 72 percent, according to a report by PBL Netherlands Environmental Assessment Agency—built with a climate subsidy from the Norwegian government. ROCKWOOL did not answer why it did not consider an electric furnace in Ranson.

Business owners in Jefferson County worry the giant ROCKWOOL factory, with its heavy traffic and air pollution, will reduce tourism, while farmers and horse breeders worry how air emissions will affect their crops and racehorses. According to a 2019 report prepared for the West Virginia Tourism Office, Jefferson County's tourism revenue is more than double that of any other county in the state.

Citizens treated as 'outsiders'

Residents are also concerned about what's underneath the ROCKWOOL factory: an enormous cave that holds up the region like a turtle shell, known as a karst formation. Karst (and its associated caves) is created by groundwater carving through the porous limestone. Karst is also a hotspot for sinkholes.

In fact, 21 sinkholes have already appeared on ROCKWOOL's property; at least seven are within the ponds that collect the factory's wastewater and stormwater runoff. According to the geology report JCF commissioned, if a sinkhole were to collapse and break through the plastic liner of ROCKWOOL's wastewater ponds, the event "could result in catastrophic release to groundwater" of contaminants hazardous to human health.

More than 40 percent of residents in Jefferson County rely on private wells, and JCF thinks ROCKWOOL's permits failed to adequately address karst geology and sinkholes.

ROCKWOOL did not answer questions about the sinkholes but previously said it repaired them when they appeared.

JCF disagrees. "If you put this (air quality or stormwater) permit in Maryland, it wouldn't have happened," April says. "If you put it in Virginia, it wouldn't have happened. It's basically to do with the political situation in West Virginia."

In a handout at an August 2018 open house, ROCKWOOL explained it had considered 50 sites for the factory in 10 states and chose Jefferson County as having the "desired mix of low costs and preferred operating conditions" and access to East Coast markets.

"These industries... tend to pick communities that are either rural, poor, or (both) rural and poor."

JCF president Chrissy Wimer, who attended the meeting, was dismayed. "They openly advertised they chose Jefferson County because of the regulatory environment... We're a peninsula of low regulation close to major markets where they want to go."

Wimer, April, Danzey and their neighbors see the battle over ROCKWOOL as a microcosm of how West Virginia prioritizes corporate interests over residents, especially when it comes to the environment. "What's frustrating is the citizen is treated as the outsider" when dealing with WVDEP, Wimer says. "We're treated as the cog in the wheel. You get a very clear feeling that you're an annoyance and a frustration."

Republican Gov. Jim Justice—a coal mining billionaire—stated after his 2016 election campaign that reinvesting in natural gas and coal resources in West Virginia was a top priority. In his first state address in 2017, he promised West Virginia industries would stop hearing "no" from WVDEP—an agency already notorious as an industry yesman.

In 2018, Justice issued an executive order expediting WVDEP's permitting process, to make industrializing the state (with increased fossil fuel use) easier. In December 2020, he joined EPA administrator Andrew Wheeler in announcing the EPA would not tighten rules on air emissions of fine particulate matter, like the soot from burning coal, even after a nationwide study linked air pollution with COVID-19 deaths. West Virginia Economic Development Authority, a state agency, offered ROCKWOOL $150 million in bonds.

"West Virginia is known for its limited environmental protections," says Laura Anderko, co-director of the Mid-Atlantic Center for Children's Health and the Environment at Georgetown University (a signatory on a complaint against ROCKWOOL). "That's why these industries place themselves in places like Mississippi and West Virginia. They tend to pick communities that are either rural, poor, or (both) rural and poor.

"ROCKWOOL is a community story that is echoed thousands of times across our country. Protections that were put into place after years and years of science and research are ignored or modified in a way to benefit industry and hurt people's health."

Turning to Denmark

Denmark has positioned itself as a global green leader, legislating to go carbon-neutral by 2050. And to help reach this goal, in its 2019 sustainability report, ROCKWOOL promised to cut its carbon emissions per unit produced in its two Danish factories by 70 percent.

Which is why the West Virginians turned to Denmark to pressure ROCKWOOL to live up to its own standards—just, overseas. In 2019, the nonprofit West Virginians for Sustainable Development filed a complaint about ROCKWOOL's international business practices with the Danish Mediation and Complaints-Handling Institution for Responsible Business Conduct (NCP Denmark).

"A lot of foreign companies understand the complexities of our laws and the ability of industry to get away with environmental violations that they would not get away with in other countries," Anderko says. "That's what we're seeing here. This is all very well-planned and well-orchestrated by ROCKWOOL."

The mediation group attempts to resolve Danish violations of the Organisation for Economic Co-operation and Development (OECD) guidelines. The OECD, made up of the world's richest countries, issues policies and standards for economic growth, including environmental standards. Any findings or decisions resulting from the complaint would not have enforceable legal standing, but the activists were hoping they could highlight the disconnect between ROCKWOOL's statements on climate and its actual global practices.

Former weatherman Tim Ross, 65, describes filing the complaint as "trying every avenue."

"They were hoping there would be something that would come out that could cause ROCKWOOL to change, either to shut down or just be more congenial and willing to listen," Ross says.

In 2018, his daughter, Maura, then a student at Butler University, pushed her dad to look into ROCKWOOL after learning about "sacrifice zones," the often low-income communities that serve as a "fence" between industry and other neighborhoods. Maura's argument resonated with Ross, who grew up in coalfields.

After not being heard by state officials, Ross became one of the first residents to turn directly to Denmark for help. In January 2019, Ross bought $323.95 of ROCKWOOL stock. He then filed a shareholder resolution, asking ROCKWOOL to have a plan—beyond what the law requires—to minimize harm to children and the environment. Ross traveled to Denmark in early 2019 for the annual shareholder meeting with three flags pinned to his lapel—West Virginia, the United States, and Denmark.

Ross says he was impressed at the meeting; he simply raised his hand and was allowed to read his resolution. The resolution did not pass, but the West Virginian delegation did meet members of parliament and other groups—who advised the community to file their complaint through the OECD.

"All our community wants is not to be ruined."

When West Virginians for Sustainable Development filed its complaint, it noted the "many months of pursuing other legal and political mechanisms to stop or otherwise drastically improve the project. At this time, we have exhausted all other meaningful avenues available to us in the United States."

In early 2020, ROCKWOOL and members of West Virginians for Sustainable Development met over three virtual meetings, organized by NCP Denmark. The West Virginians tried to push for greener options in the facility, but ROCKWOOL eventually backed out.

Danish environmentalists, at least, understood the concerns. "Pollution from a factory would never end up in front of elementary schools (in Denmark)," says Signe Sand, a Copenhagen-based architect and member of the Green Student Movement. "If what people from West Virginia are saying is right, people would go mad."

A petition by residents of the Soissons region of France, the proposed site for another ROCKWOOL factory, states Denmark doesn't want more ROCKWOOL factories at home because ROCKWOOL is "recognized around the world as a highly polluting company."

In lieu of continued mediation, NCP Denmark will now issue a (non-binding) ruling on whether ROCKWOOL is violating OECD environmental standards in West Virginia. The Jefferson County residents who filed the complaint expect to hear back by March 31.

Elin Wrzoncki, director of human rights and business at the Danish Institute for Human Rights, met Danzey during her walk in November 2019. Wrzoncki says the complaint, and ROCKWOOL's subsequent refusal to mediate, could damage ROCKWOOL's reputation in Denmark.

"There's a lot of investors taking more social, environmental, and governance criteria into consideration in investing situations," Wrzoncki says. "It's not only a court of law or a fine that can actually change behaviors, but it all depends on (NCP Denmark)."

ROCKWOOL did not respond to questions regarding the complaint nor say why it declined mediation.

Danzey is disappointed ROCKWOOL hasn't tried harder to find common ground with residents, as it has through a series of ongoing community meetings in France. "If ROCKWOOL had said, 'Let's put together a group of community members and hear their concerns,' it would have been better for them," according to Danzey. "All our community wants is not to be ruined." (ROCKWOOL maintains on its website it has been "transparent and open," placing ads about the project in local newspapers, holding events, and sending mail to Jefferson County residents.)

Threats to community health are mirrored in the climate threat of the fossil-fuel-burning furnace. Edward Collins, director of climate lobbying at InfluenceMap, a London-based climate think tank, tells VICE World News and *In These Times* that greenhouse gas-emitting companies (and their supply chains) are losing the battle against stronger environmental regulations in Europe—thanks to EU climate goals—but climate policy under the Trump administration "clearly" went in the "opposite direction."

"In the U.S., intense corporate lobbying has resulted in political inaction on climate," Collins says. "This would be attractive for any company looking to pursue a business-as-usual strategy."

The long game

West Virginia's reelection of Gov. Justice in November 2020 means the state won't get tough on industry anytime soon.

While the OECD process continues, activists recognize the nonbinding outcome may not change ROCKWOOL's plans.

President Joe Biden's administration offers a new avenue for hope—if the EPA takes Biden's promise to heart to use the "full capacity and power of the federal government" on behalf of the climate. First, it would have to hold WVDEP accountable.

Wimer plans to reconnect with the EPA as soon as Biden is more firmly established. "We hope there's a calmer, more straightforward approach," she says. "Because we really need the EPA to step in here and tell the DEP that they have to follow the rules and make ROCKWOOL get a new (air quality) permit."

Jefferson County's hope is echoed nationwide. Biden was elected on a $2 trillion plan to address clean energy and environmental justice and rejoined the Paris climate agreement on his first day in office.

An EPA spokesperson tells VICE World News and *In These Times* that the EPA is "reviewing all of the agency's actions issued under the previous administration to ensure that they protect public health and the environment."

Tabb says she is "cautiously optimistic the EPA will become a forceful institution."

Meanwhile, residents are gathering their own data about what harm the ROCKWOOL factory may cause. One of Danzey's neighbors, for example, is a doctor collecting hair samples from children within 6 miles of ROCKWOOL now, so they can be compared with hair samples from three years on, with funding from West Virginia University.

JCF has started a private drinking water well testing program, so residential well owners can have baseline water data from before ROCKWOOL operations begin.

That data matters to residents like Danzey, who has a 9-year-old son. She wants to make sure he doesn't grow up in a sacrifice zone the way she did.

"West Virginians have had enough of corporations walking in and doing whatever they want," Danzey says. "I'm so tired of hearing that West Virginia's population is shrinking unless you're doing something to make it more livable, the idea (being) that you don't owe us an explanation for what we do with our air and water or even an ear to listen.

"We need something different in West Virginia."

City delays permit for General Iron, asks for data on cumulative impact of pollution from related businesses

Mayor Lori Lightfoot's Administration is seeking more information about the cumulative air pollution around a proposed scrap-metal shredding operation on the Southeast Side, an inquiry that delays the city's permitting for the controversial business.

The city has been reviewing an operating permit application from Reserve Management Group, which acquired Lincoln Park-based General Iron in 2019. The company has been building a new facility at East 116th Street along the Calumet River to relocate General Iron, as the rebranded Southside Recycling, next to RMG's existing businesses.

In a letter Monday, a city environmental official told RMG that it requires more information "to properly assess the relationship between and the potential cumulative impact of all Reserve Management Group operations" in the area. Air pollution throughout the Southeast Side is among the worst in the city.

The "review process has identified concerns and questions related to the relationship between Southside Recycling and other adjacent, co-owned and functionally integrated business entities," city Environmental Engineer Renante Marante wrote. "The interaction of these existing operations together with the new capabilities proposed by Southside Recycling warrant further consideration in order to adequately assess the cumulative impact of the proposed recycling operations."

"Southside Recycling is building a modern new facility that will operate alongside four other RMG companies," the company said in a statement also citing its own air emissions modeling in its defense.

The permit has been at the center of a highly emotional protest from residents, including a month-long hunger strike. Lightfoot also is feeling heat from federal officials who have launched a civil rights investigation into the city's zoning and land-use practices. On Friday, a federal official reiterated to the city that Lightfoot should not issue the permit until the civil rights investigation is complete.

Under a September 2019 agreement with the Lightfoot Administration, General Iron agreed to move from mostly white, wealthy Lincoln Park to Latino and Black-majority Southeast Side. That agreement is at the center of a fair housing civil rights complaint to the Department of Housing and Urban Development.

The city has asked to meet with RMG officials this week to discuss what information is needed for review of the operating permit. In the letter, Marante said the city's review has included input from air-modeling experts and public comments.

The other businesses in the area cited by the city as potentially contributing to air pollution include Reserve Marine Terminals, South Shore Recycling, Napuck Salvage of Waupaca and Regency Technologies.

The city has been reviewing the permit application and was expected to soon either issue a draft version or deny the application. Some groups have been stepping up pressure on the mayor.

The "operations would endanger the health and safety of Southeast Side residents, including increasing the disparate burdens this community already bears," a coalition of community members and hunger strikers said in a statement. "We are relieved that the City is not charging forward to issue a draft permit."

In recent weeks, doctors and other health professionals have urged Lightfoot to reject the permit application, saying approving it would be contradicting her own statements about environmental racism and future planning. Last summer, the city put out an air quality report and map showing areas of the city overburdened with pollution, including the Southeast Side.

Meanwhile, a HUD official repeated last week that the agency is asking the city to not issue RMG a permit until it has completed its investigation. The letter from Kimberly Nevels, a HUD official in Chicago, took issue with a city lawyer's comments to a federal judge in a separate but related civil rights court hearing last week that "suggested that there was no pending request for the City to delay the permit's issuance."

"Nothing," Nevels said, "has led to any change in HUD's ongoing request that the City refrain from issuing any further permits in this matter."

Court decision will require Maryland to regulate gaseous ammonia emissions from poultry farms

Maryland must regulate the gaseous ammonia emitted by animal waste on poultry farms that could land in state waterways, a Montgomery County Circuit Court judge ruled last week.

The vapor is pumped out of industrial chicken houses via exhaust fans. Ammonia breaks down into nitrogen and hydrogen in the environment, and excess nitrogen in waterways causes damaging algae blooms, which can block sunlight and suck up oxygen for creatures and vegetation below.

Environmental groups had been pushing for the state to monitor the pollutant during the permitting process for the so-called concentrated animal feeding operations, known as CAFOs, that make up the Eastern Shore's robust poultry industry.

The Maryland Department of the Environment had argued that the gas couldn't be taken into account as part of water pollution permits since it may not end up polluting bodies of water and could simply settle on land or vegetation. The department argued that considering gaseous ammonia would necessitate pollution permits for things "as varied as cars and chimneys."

"The idea that you can't tell with precision where it goes — I think it's a red herring because you know enough about where it goes. You know that it doesn't go very far," said Abel Russ, a senior attorney at the Environmental Integrity Project, which has advocated for regulating ammonia emissions.

Circuit Court Judge Sharon V. Burrell found that Maryland law, an expansion of the federal Clean Water Act, requires the Department of the Environment to control "any liquid, gaseous, solid, or other substance that will pollute any waters of this State" — including ammonia.

The department is reviewing the decision, said MDE spokesman Jay Apperson, who defended the agency's regulation.

"Maryland's CAFO permits are among the strongest in the country, and the Maryland program's effectiveness has been noted by the U.S. Environmental Protection Agency in its reviews," he wrote in an email.

The ruling compels MDE to reevaluate the permit requirements for such operations, which were reworked in 2020, to include limits on ammonia emissions.

"Reopening this permit, which has been approved by the EPA and has gone through extensive public comment, adds uncertainty and potentially serious costs for each of Maryland's family farmers raising chickens," said James Fisher, spokesman for the Delmarva Chicken Association, in a statement.

Some farmers already work to mitigate ammonia emissions by planting trees, shrubs and tall grasses near exhaust fans, and some add treatments to chicken litter aimed at keeping ammonia levels low, Fisher wrote.

Environmental advocates say MDE should require these sorts of modifications, which are fairly inexpensive.

"The operators who are already doing this I think are paving the way, and I think their good deeds should be rewarded and recognized by leveling the playing field so that all of their competitors have to do the same thing," said Evan Isaacson, a senior attorney at the Chesapeake Legal Alliance, which argued the case.

In 2018, the Environmental Integrity Project conducted a study that found poultry barns likely emit more ammonia than the U.S. Environmental Protection Agency has assumed — 0.54 grams of ammonia per bird each day compared with 0.27 grams per bird each day.

A 2019 study by researchers at North Carolina State University found that anywhere from 180 tons to 560 tons of ammonia could be landing in the Chesapeake Bay each year from poultry farms in the Delmarva Peninsula.

The Environmental Integrity Project, a Washington-based nonprofit advocacy group, found that these emissions have been increasing in part because the number of birds sold in the Chesapeake Bay region has been increasing, as has the size of those birds and the amount of waste they produce.

As a result, advocates are worried that the gas could be hampering a goal to reduce pollution in the bay by 2025 more than expected.

"When we are this close to the 2025 deadline, we cannot leave any pollution load and solution out of the equation," said Alison Prost, the Chesapeake Bay Foundation's vice president of environmental restoration and protection.

The court's decision is a victory for Eastern Shore residents who have long fought for a better regulatory framework for the area's quickly industrializing poultry industry, said Kathy Phillips, executive director of the Assateague Coastal Trust, which brought the suit with the help of the legal alliance.

It's a fight that has spanned several years and several similar but unsuccessful court bids, Phillips said. The advocates also tried unsuccessfully to get the General Assembly to pass a bill called the Community Healthy Air Act to compel environmental officials to study air pollution from feeding operations, Phillips said. The poultry industry and state regulators eventually agreed to narrower monitoring.

On a few occasions, small battles were won, Phillips said. Worcester County, for instance, has set requirements for the amount and type of vegetation that must be planted by exhaust fans to stymie the flow of gaseous ammonia.

"I do want to give a shout-out to the individual citizens and community groups down here on the Lower Shore that have just year after year trudged the Community Healthy Air Act to Annapolis and always met with disappointment," Phillips said. "They are just so excited about this."

One of those citizens is Monica Brooks, a Salisbury resident and co-founder of Concerned Citizens Against Industrial CAFOs. As she advocated for stricter regulations for on such operations over the years, she sometimes wondered whether she could carry on. But she did.

"It's like my parents going: 'Wow, I never thought I'd see a Black president in my lifetime,'" Brooks said of the court's decision. "It's that same thing."

Waste

City Delays Decision On Permit For Controversial Southeast Side Metal Scrapper

EAST SIDE — Controversial plans for a Southeast Side metal scrapper hit another setback Monday, as the city postponed its decision on whether the facility may open and made a last-minute push to also consider the environmental impact of four other scrappers already operating at the same site.

Southside Recycling seeks city approval to move essential equipment and employees from defunct Lincoln Park scrapper General Iron to 11600 S. Burley Ave. Southside Recycling and General Iron's assets are both owned by Reserve Management Group.

Four other RMG facilities — Reserve Marine Terminals, South Shore Recycling, Napuck Salvage of Waupaca and Regency Technologies — already operate where Southside Recycling seeks to open.

The Chicago Department of Public Health is seeking "additional information that will enable us to properly assess the relationship between, and the potential cumulative impact of, all Reserve Management Group operations" at the East Side site, according to a letter sent to Southside Recycling leaders Monday.

The Illinois Environmental Protection Agency's review of Southside Recycling's plans determined the five facilities "constitute a single source for air permitting purposes," and the city will also consider their cumulative environmental impact, city environmental engineer Renante Marante wrote.

Marante's letter does not specify what information the city is seeking from Southside Recycling. A meeting between the health department and company officials is set for Thursday "to review and discuss the items necessary for CDPH to evaluate the application."

The health department will pause Southside Recycling's permit review until the new information is received, and "until these items are resolved, the applicant is not authorized to operate a class IVB large recycling facility, including any storage of recyclables," Marante said.

Southside Recycling has applied for its operating permit twice — once in November, then again in January after health officials found nearly three dozen "deficiencies" in its first application. Monday marked the final day of the city's 60-day review period for the refiled application.

RMG spokesperson Randall Samborn declined to answer questions by phone Monday evening. In a statement he said air dispersion modeling performed for state regulators shows all five facilities would remain a "minor source" of emissions "regardless of the flow of recyclable material among the operations," even if Southside Recycling was handling the maximum amount of metal allowed under its state permit, he said.

"The IEPA evaluated metallic [hazardous air pollutants] from the four existing RMG operations together with Southside Recycling's projected metallic [pollutant] emissions and did not find any potential concern," Samborn said.

You can read the city's letter to Southside Recycling in full here.

Health officials will announce a timeline for reviewing the new information and opportunities for public comment after Thursday's meeting with Southside Recycling, health department spokesperson Andrew Buchanan said.

The health department "is committed to working with the community and acting within the full scope of our authority to properly apply our new Rules for Large Recycling Facilities, to address health and environmental considerations related to this – and any other – permit application," Buchanan said in a statement.

Southeast Side residents and environmental activists have organized against Southside Recycling's plans for months, culminating in a month-long hunger strike that ended March 4. Strikers and their supporters vowed to continue pressuring the city to deny the company's permit.

The city formally agreed to help transition General Iron's operations to the Burley Avenue site under Mayor Lori Lightfoot in September 2019, an agreement that's triggered a federal fair housing investigation and a federal lawsuit.

The health department quietly issued RMG's first required permit in September, breaking health commissioner Dr. Allison Arwady's promise to notify the public when Southside Recycling submitted its application.

Lightfoot, city lawyers and RMG officials have denied General Iron is moving to the Southeast Side — despite the wording of the company's agreement with Lightfoot's administration, the minority stake in Southside Recycling held by General Iron's former owners, and the move of equipment "most critical" to General Iron's operations to Burley Avenue.

Buchanan, a city spokesperson, even referenced "this letter to General Iron" as he announced the health department's request for more information Monday in an email with the subject line "General Iron."

The defunct General Iron site at 1909 N. Clifton Ave. neighbors the $6 billion Lincoln Yards megadevelopment.

The proposed Southside Recycling site lies within a majority-Latino "area of environmental justice concern" for state environmental regulators. It's less than a mile from George Washington elementary and high schools and Rowan Park.

Shoshone dairy fined for releasing manure into Milner-Gooding Canal

March 16, 2021

SHOSHONE — A Shoshone dairy and its owner have been fined for releasing manure into the Milner-Gooding Canal in February 2017.

U.S. Magistrate Judge Candy W. Dale ordered 4 Bros. to pay a $95,000 fine and ordered its owner, Andrew Fitzgerald, 60, to pay a $35,000 fine. As part of its plea agreement entered in the case, 4 Bros. also agreed to obtain a National Pollution Discharge Elimination System permit issued under the Clean Water Act by the United States Environmental Protection Agency. NPDES permits are designed to control water pollution by regulating point sources, such as large dairies, that discharge pollutants into waters of the United States. Judge Dale also imposed one year of probation on 4 Bros.

Fitzgerald and the dairy pleaded guilty in October to unlawful discharge of a pollutant into a water of the United States, a misdemeanor violation of the Clean Water Act.

The dairy has more than 1,000 head of cattle and has wastewater lagoons adjacent to the Milner-Gooding Canal, which flows to the Malad River and on to the Snake and Columbia Rivers.

In February 2017, record precipitation, record snowpack and flooding lead to extreme runoff at the 4 Brothers property and the dairy discharged manure-laden water into the canal at three locations, the U.S. attorney's office said in a statement.

"The United States Attorney's Office takes seriously any business, corporation, or individual that violates federal environmental laws. Even the negligent discharge of pollutants into the waters of the United States is simply unacceptable," said Acting U.S. Attorney Gonzalez. "The sentence holds the defendants accountable for their actions in violating the Clean Water Act, and our office will continue to work with the EPA and our state and local partner agencies in the State of Idaho to hold offenders of the Clean Water Act accountable."

For the violation, 4 Brothers faced up to five years of probation and a fine of up to $25,000 per day of violation. Fitzgerald faced up to one year in prison and up to one year of supervised release or up to five years of probation and a fine of up to $25,000 per day of violation.

"The defendants' conduct led to a serious impact to water quality in the state of Idaho," said Scot Adair, Special Agent in Charge of EPA's Criminal Investigation Division in the Northwest. "EPA and the Department of Justice hold accountable companies and individuals that pollute our waterways."

This case was investigated by the Environmental Protection Agency, Idaho Department of Environmental Quality, Idaho Department of Agriculture and the Lincoln County Sheriff's Office.

Water

Carper statement on EPA action to address PFAS contamination in water infrastructure

Sen. Tom Carper, D-Delaware, chairman of the Senate Environment and Public Works Committee, released a statement March 12 applauding action by the U.S. Environmental Protection Agency to solicit data on the presence and treatment of per- and poly-fluoroalkyl substances in wastewater discharges from PFAS formulators and manufacturers.

"Forever chemicals like PFAS are a danger to Americans across the nation," said Carper. "This action taken by EPA is an important first step towards addressing the discharge of PFAS chemicals into our rivers, streams and wastewater facilities. I am encouraged by this administration's early efforts to address PFAS contamination at its source. As chairman of the Environment and Public Works Committee, I'll continue the fight in Congress to ensure all families have access to safe and clean water."

PFAS Drinking Water Regulations: Full Steam Ahead Under Regan

For several months, we predicted that the Biden-Harris administration's nomination of Michael Regan to lead the Environmental Protection Agency (EPA) would accelerate PFAS drinking water regulations. Last week, Mr. Regan was confirmed with bipartisan Senate support to take charge of the EPA. On the same day of his confirmation, draft PFAS drinking water regulations were added to the Federal Register. If ever there was any doubt as to whether the EPA under Biden is serious about fulfilling its campaign promise to enact PFAS drinking water regulations, it is safe to say that no such doubt should exist any more. Further, with the publishing of the proposed rules in the Federal Register, companies of all types, sizes, and position in the stream of commerce must pay attention to the changes that we predict are coming in the next three to four quarters.

What Are PFAS and Why Are They a Concern?

Per- and poly-fluoroalkyl substances ("PFAS") are a class of over 7,000 manmade compounds. Chemists at 3M and Dupont developed the initial PFAS chemicals by accident in the 1930s when researching carbon-based chemical reactions. During one such experiment, an unusual coating remained in the testing chamber, which upon further testing was completely resistant to any methods designed to break apart the atoms within the chemical. The material also had the incredible ability to repel oil and water. Dupont later called this substance PFOA (perfluorooctanoic acid), the first PFAS ever invented. After World War II, Dupont commercialized PFOA into the revolutionary product that the company branded "Teflon."

Only a short while later, 3M invented its own PFAS chemical – perfluorooctane sulfonate (PFOS), which they also commercialized and branded "Scotchgard." Within a short period of time, various PFAS chemicals were used in hundreds of products – today, it numbers in the thousands.

The same physical characteristics that make PFAS useful in a plethora of commercial applications, though, also make them highly persistent and mobile in the environment and the human body – hence the nickname, "forever chemicals." While the science is still developing regarding the extent of possible effects on human health, initial research has shown that PFOA and PFOS are capable of causing certain types of cancer, liver and kidney issues, immunological problems, and reproductive and developmental harm.

EPA's PFAS Drinking Water Rules

On February 22, 2021, the EPA issued Final Regulatory Determinations for PFOA and PFOS, which is the final necessary step before the EPA can begin the process of implementing a national drinking water regulation for these two types of PFAS under the Safe Drinking Water Act. The Final Regulatory Determination also notes that the EPA may consider other types of PFAS as it comes up with a drinking water regulation, provided that the available science supports inclusion of additional PFAS. While the EPA certainly must follow certain administrative steps to

ensure that any final PFAS drinking water rules pass muster, we previously predicted that it is not unrealistic to expect that these steps can be accomplished by the close of 2021.

Mr. Regan has demonstrated a history of tough action on PFAS issues, especially since there is a PFAS manufacturing facility in North Carolina that is under scrutiny for waterway contamination. It is therefore perhaps not surprising in the least that on March 10, 2021, the same day that Mr. Regan was confirmed to lead the EPA by the Senate, the Federal Register published the regulatory determinations. While largely symbolic in a sense (since the publication in the Federal Register is in fact not the final enforceable rule), the timing of the move should nevertheless come as no surprise to anyone following PFAS issues closely.

What Will the Impact Be To Businesses?

Many companies assume that any regulation under the Safe Drinking Water Act will not impact them, as virtually no industries, aside from water utilities, have any direct impact on drinking water. However, this belief provides a false sense of security that must immediately be dispelled. There are three specific ways that drinking water limits for PFAS will trigger scrutiny on environmental practices of businesses: (1) effluent discharges into water sources; (2) waste sent to landfills that may leach into drinking water sources; and (3) properties abutting or in the vicinity of water sources.

Direct industry effluent discharges into water sources (which may not be drinking water sources, but may feed into drinking water sources) will be the low-hanging fruit target for local environmental agencies at the state level. Companies must ensure that they have all permitting in order, and it is advisable that the permitting specifically encompasses PFAS. Failing to do so will cause issues down the line when local environmental regulatory bodies look to determine, even retroactively, who PFAS water polluters are or were, as those agencies seek to hold businesses responsible for the costs associated with cleaning up PFAS in drinking water.

Waste management companies and businesses that send their industrial waste to landfills are also well advised to do a full compliance check. While many companies do not use PFAS directly in their own manufacturing processes, do the parts or other raw materials used in the manufacturing process have PFAS contamination issues? Are landfills doing due diligence to determine if they are accepting PFAS waste? A company could unknowingly send PFAS-laden industrial waste products to landfills, and so these are questions that companies must get answers to. Over time, it is possible that the PFAS may leach out of the landfill and find their way into local water sources. Environmental regulatory agencies will look to these sites, the owners of the sites, and potentially companies sending waste to the sites as responsible parties for PFAS contamination in waterways.

Finally, even businesses having nothing to do with PFAS or manufacturing from which PFAS could be a contaminant need to follow news regarding PFAS regulations. For example, has the property on which your business sits ever had fires that have required a local fire department to extinguish flames using foam (historically, a PFAS containing product)? What did the owner of the site prior to you use the site for? Were there possible PFAS contamination issues stemming from that prior business? Did your due diligence reports and tests when purchasing the property take PFAS into consideration? If PFAS were a contaminant on the land on which your business now operates, local environmental agencies will pursue cleanup costs from any such business regardless of knowledge or intent, and regardless of whether the PFAS issues were the result of a prior company on the site. These investigations and remediations can be extremely expensive and disruptive to businesses.

Conclusion

Our prediction remains that in 2021, PFAS drinking water rules will be finalized at the federal level. This will require states to act, as well (and some states may still enact stronger regulations than the EPA). Both the federal and the state level regulations will impact businesses and industries of many kinds, even if their contribution to drinking water contamination issues may seem on the surface to be de minimus. In states that already have PFAS drinking water standards enacted, businesses and property owners have already seen local environmental agencies scrutinize possible sources of PFAS pollution much more closely than ever before, which has resulted in unexpected costs.

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/22/2021 12:12:42 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 22 -- E&E Daily is ready

E&E Daily -- Congress. Legislation. Politics.

Read today's E&E Daily on the web

E&E DAILY

AN E&E NEWS PUBLICATION

E&E DAILY — Mon., February 22, 2021

READ FULL EDITION

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Haaland's allies gird for tense confirmation hearing

Allies of New Mexico Democratic Rep. Deb Haaland are making themselves known ahead of what is likely to be a contentious confirmation hearing tomorrow to lead the Interior Department.

TOP STORIES

2. SENATE:
Tanden nomination in peril as other picks sail through

3. NATURAL RESOURCES:
Republicans prepare to attack Dem lands package

4. ENERGY POLICY:
Dems turn up the heat on Republicans over Texas blackouts

ON THE HILL

5. INFRASTRUCTURE:
EPW to kick-start 'Build Back Better' effort

6. AGENDA:
House to approve billions for energy, transit aid

7. LAW:
Merrick Garland finally gets his day in the Senate

8. CLIMATE:
Panel to examine financial risk, energy innovation

9. AGRICULTURE:
Hearings to discuss climate, USDA IG concerns

IN THE HOUSE

10. INFRASTRUCTURE:
Panel to study water's role in reform package, Biden agenda

11. CHEMICALS:
Hearing to review PFAS risks for service members

12. AGENDA:
Lawmakers introduce biofuel, energy and mine cleanup bills

IN COMMITTEE

13. SECURITY:
Lawmakers probe suspected Russian hack of U.S. agencies

14. HOUSE:
Democrats look to strengthen federal workforce

15. NATURAL RESOURCES:
Vote set on tropical forest, coral reef legislation

UPCOMING HEARINGS AND MARKUPS

16. CALENDAR:
Activity for February 22 - February 28, 2021

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From: E&E News [ealerts@eenews.net]
Sent: 2/24/2021 12:22:42 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 24 -- Climatewire is ready

Climatewire -- Policy. Science. Business.

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CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Wed., February 24, 2021

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1. ENERGY TRANSITIONS:
As Texas went dark, power flowed in America's coldest place

Utilities across the northern U.S. have long fortified themselves against extreme cold, preventing the widespread outages seen in Texas last week. The dirty secret: The power systems remain highly reliant on fossil fuels to keep the lights on.

TOP STORIES

2. POLITICS:
Haaland downplays Biden's drilling ban as a 'pause'

3. ENERGY TRANSITIONS:
How 35 utilities plan to hit net zero

CLIMATE IMPACTS

4. POLITICS:
Senate confirms Thomas-Greenfield as U.N. ambassador

5. CALIFORNIA:
Audit: Climate agency overestimates emission cuts

6. SCIENCE:
Pests are hurting European forests. Climate may be a factor

IN THE STATES

7. NEW JERSEY:
U.S. to urge barriers, elevation to fight bay flooding

8. GEORGIA:

House says localities can't ban natural gas hookups

BUSINESS

9. TECHNOLOGY:

Spotify billionaire among investors in green steel startup

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10. ADVOCACY:

Bill Gates wants to team up with Jeff Bezos on climate

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Message

From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 3/2/2021 9:52:04 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition, 3/2/21

Daily Media Clips: March 2, 2021 (afternoon edition)

Air

WPTA21: Steel Dynamics agrees to upgrade emissions equipment, pay EPA settlement fee
wane: Steel Dynamics to pay $475,000 penalty, reduce air pollution as part of EPA settlement

Chemicals

KIRO7: EPA receives thousands of complaints about pet deaths, human injuries linked to flea collar
MesoWatch: Groups Push Back on EPA's Effort to Neuter Asbestos Reporting Order
WZZM13: Report raises questions about popular flea collar
The Cap Times: Steve Clark: It's wrong to say glyphosate is carcinogenic
USA Today: Popular flea collar linked to almost 1,700 pet deaths. The EPA has issued no warning.
WHDH: Popular flea collar for pets linked to nearly 1,700 deaths, documents show
The California Aggie: Why my polluted blood is boiling and yours should be too

Climate

Roll Call: Sweeping climate bill aims for zero carbon emissions by 2050

COVID-19

Sports Talk Philly: Phillies Announce an 8,800-Fan Capacity for First 19 Games

Environmental Justice

NHO News: EPA awards contracts to clean abandoned uranium mines on the Navajo Nation
Chicago Tribune: Letters: RMG chief: The metal recycling facility on the Southeast Side will not be another General Ironz
NHO News: Sen. Mark Kelly says he's in a position to help Native Americans

Water

News-PressNow: $48 million Blacksnake Creek project nearing completion
NYT: Did Trump Really Make Dishwashers Great Again?
Daily Inter Lake: EPA approves new selenium standards for Lake Koocanusa
Storm Water Solutions: EPA FINALIZES ALLOCATION FORMULA FOR SEWER OVERFLOW AND STORMWATER REUSE GRANTS PROGRAM
Water Technology: EPA settles case with Washington seafood processor over discharge violations

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Steel Dynamics agrees to upgrade emissions equipment, pay EPA settlement fee
https://wpta21.com/2021/03/02/steel-dynamics-agrees-to-upgrade-emissions-equipment-pay-epa-settlement-fee/
March 2, 2021

CHICAGO (WPTA21) – A northeast Indiana steel producer agreed to upgrade their air pollution control equipment and pay a settlement fee to the state and federal governments.

The EPA announced a settlement with Steel Dynamics, Inc. (SDI) Tuesday morning.
Federal regulators accused SDI of violating the Clean Air Act by not properly capturing emissions from two facilities in Butler, Indiana.

Inspectors said they found multiple violations at the Iron Dynamics Division and Flat Roll Division.

The emissions contain microscopic particles that can cause serious health problems if inhaled.

As part of the settlement, SDI agreed to upgrade equipment that would reduce air emissions. The upgrade is expected to cost $3 million, according to the EPA.

The company also agreed to pay a $475,000 civil penalty that will be split evenly by the Indiana and federal governments.

Learn more about the Clean Air Act here.

Steel Dynamics to pay $475,000 penalty, reduce air pollution as part of EPA settlement
https://www.wane.com/news/local-news/steel-dynamics-to-pay-475000-penalty-reduce-air-pollution-as-part-of-epa-settlement/
Posted: Mar 2, 2021 / 11:53 AM EST / Updated: Mar 2, 2021 / 11:53 AM EST

CHICAGO (WANE) Steel Dynamics, Inc. will spend $3 million to upgrade air pollution control equipment at its facilities in Butler, Indiana as part of a settlement announced by the EPA involving alleged violations of the Clean Air Act.

According to a news release issued by the EPA Tuesday morning, it's alleged that multiple violations were found by the EPA during an inspection and record review of Steel Dynamics' Iron Dynamics Division and Flat Roll Division plants in Butler.

The violations included a failure to capture all emissions from three ladle metallurgical stations and route them to a baghouse, as required by the company's Title V operating permit. The failure to control those emissions resulted in excess emissions of particulate matter which contains microscopic solids that are so small that they can be inhaled and can cause serious health problems according to the EPA.

As part of the settlement, Steel Dynamics has agreed to pay a civil penalty of $475,000 which will be split evenly between the state of Indiana and the U.S. government. The company will also upgrade the capture and control of emissions by building a new or expanded baghouse which will put the particulate matter emissions in compliance with the Clean Air Act.

EPA receives thousands of complaints about pet deaths, human injuries linked to flea collar
https://www.kiro7.com/news/trending/epa-receives-thousands-complaints-about-pet-deaths-human-injuries-linked-flea-collar/XC4TUZ6QYZHWZKBHSJF23RASY4/
By: Debbie Lord, Cox Media Group National Content Desk
Updated: March 2, 2021 - 10:24 AM

The Environmental Protection Agency has received thousands of complaints about a popular pet flea collar, including more than 1,600 incidents of pet deaths and 1,000 cases of harm to humans who have had contact with it, USA Today is reporting.

Seresto, a flea and tick collar, has been linked to the pet deaths and human injuries, according to EPA documents that show the agency has received more than 75,000 complaints in the past eight years.

The collar, designed to release small amounts of pesticide onto the animal for months at a time, is advertised as a flea and tick killer that is safe for cats and dogs.

"No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk," an EPA spokesperson told USA Today in a statement.

"The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

According to the USA Today story, Bayer, the company that made the collars, did not respond to multiple requests for comment. To read the entire USA Today story, click here.

Groups Push Back on EPA's Effort to Neuter Asbestos Reporting Order
https://mesowatch.com/groups-push-back-on-epas-effort-to-neuter-asbestos-reporting-order/
By Cameron Ayers | Mar 2, 2021

States and anti-asbestos groups are pushing back on the Environmental Protection Agency's attempts to circumvent a court order mandating asbestos reporting requirements.

In legal briefs filed Feb. 26, three states and a coalition of anti-asbestos groups asked the Ninth U.S. Circuit Court of Appeals to enforce a Dec. 22 order compelling the EPA to include asbestos in its Chemical Data Reporting (CDR) requirements. Asbestos importers were previously required to report exposure and use data to the agency under the CDR, but the agency exempted asbestos from the requirements in 2017.

The court filings were prompted by a Feb. 2 agency request that the Ninth Circuit waive the order and the associated asbestos reporting rule. The agency proposed that in place of the order, it be allowed to simply revisit citizen petitions filed by the anti-asbestos groups to restore asbestos to the CDR reporting rules — petitions that the agency rejected, which prompted a lawsuit and the resulting court order.

Evasion Alleged
The anti-asbestos organizations — a coalition of six groups led by the Asbestos Disease Awareness Organization (ADAO) — accused the EPA of trying to evade its responsibilities with its latest legal maneuver.

"It has been two months since entry of the court's ... order and EPA has made no progress in amending the CDR rule," the brief states. "Instead of directing it to conduct rulemaking, EPA would convert the order into an open-ended remand that instructs EPA merely to reexamine the petition denials, without any obligation to propose amendments to the CDR rule or indeed take any action at all."

"Instead of directing it to conduct rulemaking, EPA would convert the order into an open-ended remand that instructs EPA merely to reexamine the petition denials, without any obligation to propose amendments to the CDR rule or indeed take any action at all." — Legal Brief

The filings asked the Ninth Circuit to reject the EPA's proposed revisions to the order and impose a compliance schedule for the agency to follow. The ADAO brief includes a suggested order that would require the agency to propose CDR amendments within 45 days and to finalize the proposals 60 days later. Such a compliance schedule is "realistic and achievable," the filing asserts.

States Chime In
A separate filing from three of the 10 states involved in the case — California, Massachusetts and Connecticut — echoed many of the arguments made in the ADAO brief, noting that the EPA's request was attempting to "litigate old matters" by offering nothing new in its defense.

It also contended that the EPA's motion failed to demonstrate that the court's order commits a "manifest error of law," the legal standard for amending a judgment.

In a statement, ADAO's counsel — Robert Sussman of the firm Sussman & Associates — said the group is "disappointed" that this was its first experience with the new administration under President Joe Biden, "especially since during the presidential campaign, Biden's team made it clear he was ready to address the horrible legacy of asbestos death and disease in our country."

Motion to Intervene
On a related note, a trade association for chlor-alkali producers — the Chlorine Institute — filed a motion to intervene in a connected case on Feb. 25. The motion was prompted by a Jan. 26 filing from ADAO asking the Ninth Circuit to review the EPA's handling of a risk evaluation for asbestos, which focused exclusively on chrysotile asbestos.

More specifically, the motion centered on ADAO's request that the court review the EPA's decision "determining the risks of certain conditions of use of chrysotile asbestos fibers but declining to consider the risks of other asbestos fibers, conditions of use, health effects and pathways of exposure that impact public health."

In the Chlorine Institute's eyes, this request was ambiguous, as the organization could not determine whether the request applied to chrysotile asbestos — which the group champions on behalf of its members — or only other forms of asbestos.

Uncertainty Abounds
Based on that uncertainty, the group filed its motion with the court, saying it should be allowed a seat at the table if ADAO seeks to restrict the importation or use of chrysotile.

"The Institute's member companies who use chrysotile asbestos for the manufacture of chlorine may be adversely affected by such remedies, depending on the precise remedies petitioners seek," the motion stated.

In a Feb. 28 release touting the Chlorine Institute's response, ADAO noted that it does indeed harbor concerns about the EPA's conclusions on chrysotile's risk, though the group did not explicitly say this was the intention behind its filing.

Report raises questions about popular flea collar
https://www.wzzm13.com/article/life/pets/report-raises-questions-about-popular-flea-collar/69-86cc9f6a-0086-4dec-8438-29e6ce933622
Author: 13 ON YOUR SIDE Staff
Published: 3:36 PM EST March 2, 2021
Updated: 3:36 PM EST March 2, 2021

The EPA has documented at least 1,698 deaths, and 75,000 incident reports related to the collars.

An investigative report published in USA Today is questioning the safety of one of the nation's most popular flea collars. The investigation, conducted by the Midwest Center for Investigative Reporting, reviewed thousands of complaints filed by pet owners with the Environmental Protection Agency.

The report links thousands of pet injuries and hundreds of deaths to the Seresto Flea Collar. It claims the EPA has documented at least 1,698 deaths, and 75,000 incident reports related to the collars.

13 ON YOUR SIDE reached out to Elanco, the company that makes the Seresto Flea Collar. A spokesperson provided us with a statement. "First, it is critically important to understand that a report is not an indication of cause.

What those numbers represent is the number of reports received, and do not reflect causality. The spokesperson goes on to say, "if a dog were to be wearing a collar and experience any sort of adverse event, the collar would be mentioned in the report." They say drawing a link between the two could be misleading.

Seresto collar was first introduced in 2012 and the company says it has protected 25-million dogs from fleas and ticks. Elanco says it does take any reports of adverse events seriously and does evaluate and report them to authorities if necessary.

The Midwest Center for Investigative Reporting says the chemical in the collar has also had an adverse affect on at least 1,000 people. Documents list ailments as rash, hives, numbness and headaches.

To read the complete article go Midwest Center for Investigative Reporting.

Steve Clark: It's wrong to say glyphosate is carcinogenic
https://madison.com/ct/opinion/mailbag/steve-clark-its-wrong-to-say-glyphosate-is-carcinogenic/article_d442f40c-2ea9-54ae-a8dc-4f08484c4f00.html
By Steve Clark
2 Mar. 2021

Dear Editor: A letter published Feb. 17 ("Does anyone in Madison care about pesticide use") was wrong to say that glyphosate (the herbicide in Roundup) is carcinogenic.

I began my science career at the EPA, working in pesticides the year Roundup came to market. The EPA found no problem with it then, and again found no problem in its recent update on glyphosate. In fact, no regulatory agency in the world has found glyphosate to be a problem. After my stint at the EPA, I became a medical school professor and expert in the blood cancers that glyphosate is alleged to cause. I confidently state that there is no credible science supporting the notion that glyphosate causes any cancer. In fact, the Agricultural Health Study, funded by the National Cancer Institute, included 45,000 pesticide applicators who handled glyphosate since 1993 found that there was NO association between glyphosate use and ANY cancer.

Readers might have seen advertisements from tort attorneys soliciting Roundup users for class action lawsuits against Monsanto, the manufacturer of Roundup. A couple of California juries found that glyphosate causes cancer. Their decisions were based on a report by the International Agency for Research on Cancer (IARC), an arm of the World Health Organization (WHO). The report declared glyphosate to be "probably carcinogenic." However, it later was revealed that the report ignored data that would have led the IARC to conclude that glyphosate is safe. The lead author admitted this to the Reuters News Agency. The WHO has disavowed the report.

Steve Clark
Madison

Popular flea collar linked to almost 1,700 pet deaths. The EPA has issued no warning.
https://www.usatoday.com/story/news/investigations/2021/03/02/seresto-dog-cat-collars-found-harm-pets-humans-epa-records-show/4574753001/

By Johnathan Hettinger
Midwest Center for Investigative Reporting
2 Mar. 2021

Rhonda Bomwell had never used a flea and tick collar before. Pierre, her 9-year-old Papillon service dog, was mostly an indoor animal.

Still, her veterinarian recommended she purchase one, so Bomwell went to the pet store near her home in Somerset, New Jersey, and selected Bayer's Seresto collar.

A day later, on June 2, 2020, Pierre had a seizure, collapsing while Bomwell was making dinner. Lying on his back, the dog stopped breathing and his eyes rolled back.

Bomwell tried giving him CPR. Then she called the police. An officer helped her lift the dog into her car, and she rushed him to the hospital. Pierre died before he could receive medical treatment. Bomwell didn't think to take off Pierre's collar.

"I just didn't put it together," she said.

Bomwell isn't alone. Seresto, one of the most popular flea and tick collars in the country, has been linked to hundreds of pet deaths, tens of thousands of injured animals and hundreds of harmed humans, U.S. Environmental Protection Agency documents show.

Yet the EPA has done nothing to inform the public of the risks.

Seresto, developed by Bayer and now sold by Elanco, works by releasing small amounts of pesticide onto the animal for months at a time. The pesticide is supposed to kill fleas, ticks and other pests but be safe for cats and dogs.

But thousands of pets are being harmed, according to federal documents obtained through a public records request from the Center for Biological Diversity, a nonprofit organization that watchdogs the EPA as part of its work to protect endangered species. The center provided the documents to the Midwest Center for Investigative Reporting.

Since Seresto flea and tick collars were introduced in 2012, the EPA has received incident reports of at least 1,698 related pet deaths. Overall, through June 2020, the agency has received more than 75,000 incident reports related to the collars, including nearly 1,000 involving human harm.

The EPA is in charge of regulating products that contain pesticides. The agency has known about these incidents for years but has not informed the public of the potential risks associated with this product, said Karen McCormack, a retired EPA employee who worked as both a scientist and communications officer.

McCormack said the collars have the most incidents of any pesticide pet product she's ever seen.

"The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation," she said. "But I think this is a significant problem that needs to be addressed sooner rather than later."

The EPA declined to say how Seresto compares to other pet products. But in response to a question about whether the product is safe, an agency spokesperson said in an emailed statement that the two pesticides in Seresto have "been found eligible for continued registration" based on best available science, including incident data.

"No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk," the spokesperson said. "The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

Amazon, where Seresto is the top-selling collar, also has received numerous complaints about the product from customers who detailed significant issues. Dozens of people over the years have claimed the collar caused skin rashes in their pet. Others said it led to neurological issues in their pets.

Despite the many warnings, Amazon has not removed the product from its online marketplace. Amazon did not respond to multiple requests for comment for this story.

This isn't the first time that the EPA has failed to properly regulate flea and tick collars containing pesticides, said Miriam Rotkin-Ellman, a senior scientist at the Natural Resources Defense Council.

The NRDC filed a petition against the agency more than a decade ago over its approval of a different pesticide than the one used in Seresto that is linked to cancer and brain development issues in children.

In April 2020, a federal appeals court called the EPA's refusal to respond to NRDC's requests "nothing short of egregious" and told agency officials to make a decision on whether to ban the pesticide within 90 days. The EPA decided not to ban the pesticide, called tetrachlorvinphos. That pet collar continues to be sold under the brand name Hartz Ultraguard, Hartz InControl and Longlife.

NRDC has challenged that decision; that lawsuit is currently pending.

Even so, the number of incidents linked to that pesticide pales in comparison to those linked to Seresto. From 1992 to 2008, the EPA received about 4,600 incident reports regarding pet collars containing tetrachlorvinphos, including 363 deaths, according to EPA documents.

Broken down per year, that's 30 times fewer incidents and 10 times fewer deaths than Seresto.

And those are most likely an undercount, said Nathan Donley, a senior scientist at the Center for Biological Diversity and an expert on U.S. pesticide regulation. Donley said the number of reported incidents for Seresto is "just the tip of the iceberg."

In order to report an incident, a person has to make the connection between the collar and the issue with the dog, understand who to contact and how to report it, he said.

"Most of the time, people are not going to make the connection or they're not going to take an hour or so out of the day and figure out how to call and spend time on hold," Donley said.

He said the incident data creates lots of questions about EPA processes.

"My God, if this doesn't trigger a concern, that's a fundamental problem with the process," Donley said. "The fact that EPA has not done anything to alert the public that there might be an issue here, it strikes me as bordering on criminal. The EPA has this system in place to compile information and it's just collecting dust in some database."

A big business

Pet collars are big business. In its 2019 annual report, German agribusiness and pharmaceutical company Bayer reported revenue of more than $300 million on Seresto alone.

The company sold its animal health division to Elanco Animal Health, a former subsidiary of Eli Lilly and Co., for $7.6 billion in 2019. The deal was finalized in 2020. As part of the deal, Bayer received $2.3 billion in Elanco stock, which the company said it would sell over time.

Bayer did not respond to multiple requests for comment.

Since being spun off as its own company in 2019, Elanco has lobbied the EPA quarterly on issues relating to animal health, according to the the nonprofit Center for Responsive Politics, which maintains a website tracking political contributions. Over two years, the company has spent $1.6 million on lobbying, records show.

Keri McGrath, a spokeswoman for Elanco, said in an email the company "takes the safety of our products very seriously and thoroughly investigates potential concerns related to their use." McGrath pointed out that regulatory authorities have approved the product in more than 80 countries, and the EPA is in the final stages of re-approving both pesticides. There is no timeline on the final decision.

McGrath said that global data shows that 1 in 568 users of Seresto have an incident and "the majority of these incident reports relate to non-serious effects such as application site disorders, e.g. a reddening of the skin or hair loss below the collar."

"Keep in mind that the existence of an adverse event report does not necessarily mean the product caused the problem," she said. "Causality between the observed signs and the use of the product is evaluated on a case-by-case basis. That said, every adverse event collected, regardless of causality, is reported to the authorities."

The EPA did not respond to a request about how Seresto compared to other flea and tick collars in terms of incidents. The Midwest Center has filed a Freedom of Information request for the incident database, but that request has not yet been filled.

The extent of the damage is uncommon, said McCormack, the former EPA staffer.

"I've never seen any product that had 75,000 incidents," McCormack said.

Seresto's pesticides more toxic together

The EPA approved Seresto collars on March 16, 2012. The collars are designed to work for eight months.

Under the Federal Insecticide, Fungicide and Rodenticide Act, the EPA must determine a pesticide product will not cause "unreasonable effects on the environment."

This determination requires weighing harms versus benefits, including assessments of risks to human health and the environment.

Seresto contains two pesticides: imidacloprid and flumethrin.

Imidacloprid belongs to the neonicotinoid class of insecticides, which are the most commonly used insecticides on crops in the U.S. Despite neonicotinoids being connected to massive die-offs of non-target insects such as bees and butterflies, the EPA proposed re-approving imidacloprid and other class members last year. The pesticide is banned in the European Union for outdoor use but allowed in pet collars. There is also growing evidence that mammals can be harmed by these pesticides as well.

Flumethrin, EPA documents show, is only an active ingredient in one product: Seresto.

Like with most pesticides, the data supporting the registration of Seresto was conducted by the company that produced it, Bayer. The majority of the studies were looking at each pesticide individually.

However, a 2012 Bayer study found they have a "synergistic effect," meaning they are more toxic together on fleas. The study found that the "unique pharmacological synergism" works as quickly as six hours to prevent ticks from attaching and feeding, preventing disease transmission.

Additionally, eight companion animal safety studies were conducted by Bayer looking at the effect of Seresto collars on domestic cats and dogs. The EPA used these studies to approve Seresto. The California Department of Pesticide Regulation took issue with the validity of two of the studies but approved the collars anyway.

Another issue could be a reaction of inactive ingredients, which are unknown and have caused problems in spot-on treatments, said Donley of the Center for Biological Diversity.

Donley, who has a doctorate in cell and developmental biology and is a former cancer researcher, said this "synergistic effect" likely extends to pets. He said he wasn't sure what makes the two pesticides so likely to cause harm, but it is clear something is wrong with the product.

"You don't even see these kinds of numbers with many agricultural chemicals," Donley said.

"For whatever reason, this combination is just really nasty."

History of unsafe pet treatments

There are currently 18 flea and tick collars on the market: three that are approved for both dogs and cats (including Seresto), 10 approved for dogs and five for cats, according to the National Pesticide Information Center.

In addition to allowing tetrachlorvinphos in pet collars despite evidence of its safety issues, the EPA also had approved the use of another pesticide linked to cancer and brain development problems – propoxur, which was sold under many brand names, including Bio Spot, Scratex Color, Zodiac, Sergeant's Dual Action and Sentry Dual Action.

Rotkin-Ellman's research showed residues were high enough to pose a risk to children and adults who play with pets that were wearing the collars.

In April 2016, pesticide companies voluntarily agreed to stop using propoxur to help protect children's health. The brand names that used propoxur have switched to other active ingredients.

In addition, in 2010, the EPA increased label requirements and limited some inert ingredients in spot-on treatments, which are applied to a specific area of a pet. This happened after incident data showed the treatments were causing hundreds of pet deaths, as well as issues such as irritation, rashes and hair loss, gastrointestinal problems and seizures.

Collars have caused seizures, rashes in humans
It's not just pets that are being harmed, EPA documents show.

Between 2013 and 2018, 907 incidents were reported with humans, according to a September 2019 EPA assessment of human health risk.

The assessment determined that there were 19 severe incidents. Of those, eight people had dermal symptoms, such as a rash or hives, and seven had neurological symptoms, which included numbness and headaches.

Incidents listed by the EPA included:
A 12-year-old boy who slept in a bed with a dog wearing a collar started having seizures and vomiting. He had to be hospitalized.
A 67-year-old woman who slept in a bed with a dog wearing a collar reported having heart arrhythmia and fatigue.
A 43-year-old man put collars on eight dogs and slept in the same bed as four of the dogs. A week later, he developed ear drainage and nasal and throat irritation and was told by a doctor that he had a hole in his ear drum. He removed the dog collars and the symptoms went away. He later reapplied the collars and the symptoms returned.

An October 2016 EPA bulletin responded to citizen concerns about children being exposed to Seresto, saying it had found exposure to the collars to be negligible.

"As stated in the precautions on the label, do not allow children to play with the collars. In addition, try to keep the pet away from young children for a day after putting on the collar to minimize exposure," the bulletin said.

"It's really not just happening to animals. It's happening to people who pet them as well," Donley said. "I have two young kids who are all over our dog all the time. I can imagine how highly exposed people would be to residues."

'It's just been a nightmare'
To Bomwell, the worst part was the lack of warning. Pierre had never been sick or had a seizure. He was just 9, so she thought he had half a decade left. Her last dog had died at 18. Plus, she felt like she was responsible. She was the one who put the collar on.

"It was so bizarre," Bomwell said. "It's just been a nightmare."

Even if the EPA had not received tens of thousands of complaints, a cursory search of the web would find dozens of posts from pet owners warning others to be careful with the collars, including a letter to an animal doctor column in the St. Louis Post-Dispatch in 2013, a radio news story in New York in 2016 and extensive comments on pet forums.

Without the federal government stepping in, individuals are left in the dark. That's something Ron Packard, of Brockton, Massachusetts, is hoping to address.

In the days after the death of his two dogs in June 2019, Packard did what any person looking for answers does: He went to the internet.

Two of Packard's four dogs had recently had seizures on the same day, before becoming lethargic and vomiting and finally, refusing to eat. He brought them to the veterinarian, who couldn't find a problem.

Within weeks, the two previously healthy cavachons, 10-year-old Danny and 5-year-old Dominic, were both dead.

The only thing Packard could figure out was both dogs had started wearing Seresto flea and tick collars a month before.

"Thirty-three and 54 days later, they're both dead," Packard said.

Packard created a Facebook page, asking people who had similar issues to share their stories.

Today, the page fills up with pictures and stories like Packard's.

A dog starts wearing a collar. Within weeks, a dog will have a seizure, sometimes it will later die. Other stories aren't quite as extreme. Loss of hair around the neck. Lethargy.

Packard encourages everyone to report their story to the EPA.

"I don't want others to go through what we went through," he said. "Every time I read the stories, it brings me back to my dogs. But if I can save a few pets, I can deal with it."

This story is a collaboration between USA TODAY and the Midwest Center for Investigative Reporting. The center is an independent, nonprofit newsroom covering agribusiness, Big Ag and related issues. USA TODAY is funding a fellowship at the center for expanded coverage of agribusiness and its impact on communities.

Popular flea collar for pets linked to nearly 1,700 deaths, documents show
https://whdh.com/news/popular-flea-collar-for-pets-linked-to-nearly-1700-deaths-documents-show/
Frank O'Laughlin

(WHDH) — A popular flea and tick collar for dogs and cats has been linked to nearly 1,700 pet deaths, as well as tens of thousands of injuries, documents show.

Scores of pets are being harmed by Seresto collars, which work by releasing small amounts of pesticide onto the animal for months at a time, according to a new report published by the Midwest Center for Investigative Reporting and USA Today.

Since Seresto introduced the collars in 2012, the U.S. Environmental Protection Agency has received reports of at least 1,698 pet-related deaths. As of June 2020, the EPA had also received more than 75,000 incident reports related to the collars, according to documents obtained by the Center for Biological Diversity and shared with the Midwest Center for Investigative Reporting.

Nearly 1,000 of the reported incidents involved human harm, the documents indicated.

The EPA has known about the incidents for years but has not informed the public of the potential risk associated with the collars, according to Karen McCormack, a retired EPA official.

"The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation," McCormack said in the report. "But I think this is a significant problem that needs to be addressed sooner rather than later."

While the EPA reportedly declined to say how Seresto compares to other pet products, an agency spokesperson said in an email to the authors of the report, "No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk."

New Jersey native Rhonda Bomwell lost her Papillon service dog to a seizure in June, just one day after putting a Seresto collar on the animal, according to the report.

Seresto also remains the top-selling collar on Amazon, despite numerous complaints, the report points out.

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Why my polluted blood is boiling and yours should be too
https://theaggie.org/2021/03/02/why-my-polluted-blood-is-boiling-and-yours-should-be-too/
BY JOE SWEENEY — JMSWEENEY@UCDAVIS.EDU
2 Mar. 2021

It's time for the Biden Administration to protect the American people from "forever chemicals," forever

Teflon. An invention as American as apple pie, it has been used in everything from coating pipes in the Manhattan Project to everyday use in kitchens to coat non-stick pans. Teflon was so popular that in the 1980s that former president Ronald Reagan was affectionately nicknamed "The Teflon President," because no scandals ever seemed to stick to him. Teflon's "non-stick" ability was attributable to a surfactant called Perfluorooctanoic Acid (PFOA), which was only fully phased out of use by Dupont in 2014.

Today, it is common knowledge that PFOA has been linked to a vast amount of human health impacts, including kidney, testicular, liver and pancreatic cancer. Recent studies have also indicated that it is found in nearly every living thing on Earth, even in the most remote locations. You're probably wondering: How is this even possible? How did this harmful chemical go undetected for so long?

The easy answer is it didn't. Dupont, the company who makes Teflon, knew that PFOAs had potentially severe health impacts from their own study on dogs and rabbits, by 1961. Over the next few decades, 3M Company and Dupont did a series of internal studies, which linked PFOAs to birth defects, testicular cancer, pancreatic cancer and liver tumors in various species. Ultimately though, Dupont argued that they had no reason to believe that there were any adverse human impacts. This was fairly convenient considering they knew that there were high concentrations of the chemical in the blood of their workers at the Washington Works Plant since 1984. In fact, between 1951 and 2003, 1.7 million pounds of PFOAs were released into the environment around the plant meaning that the surrounding community was also likely impacted. The bottom line is that Dupont knew that PFOAs were likely dangerous just 10 years after they began using them, yet never informed the federal government or the Environmental Protection Agency (EPA).

It is likely that PFOAs toxicity might've gone undetected to the present if it hadn't been for a persistent farmer named Wilbur Tennant. In the late 1990s, Tennant, whose cattle had been dying mysteriously, blamed Dupont's new landfill which had opened adjacent to his land. Unable to find legal help within Parkersburg, Tennant resorted to reaching out to Robert Bilott, a corporate chemical defense lawyer whose grandmother lived in Parkersburg. Ultimately, Bilott was able to win a settlement for the Tennants, but was unsatisfied with the outcome as it allowed Dupont to continue to pollute the local community.

Bilott, among others, went on to sue Dupont in a class action lawsuit which Dupont settled on the basis that an independent science board would look into the toxicity of the chemical. With 70,000 participants involved in one of the largest epidemiological studies in history, the board took 7 years and concluded that there was a probable link between PFOA and a plethora of cancers. In response to this, Dupont rejected the evidence from the independent review and tried to fight every individual lawsuit on a person-to-person case. Many of the plaintiffs were terminally ill, and it was likely that Dupont was banking on the fact that many people would die or give up before getting a verdict. After several individual cases (and losses), the company settled with the entire class for $670 million dollars, less than what the company makes on Teflon in a single year.

To this day, the EPA has only marked PFOAs as a "chemical of concern," and cannot enforce any guidelines or health suggestions set by their review of the chemical. Bilott's battle with PFOAs illustrate the greater problem with the EPA's review process for unregulated chemicals. The loophole which allowed Dupont and 3M to

continue to pollute the entire country for decades essentially relied on self regulation which has historically never worked.

Additionally, PFOAs are only one of many chemicals that fall under the category of "forever chemicals," named for their persistence in both the environment and the human body. There are dozens of other chemicals that fall under this category, mostly unregulated, that must be a priority for the Biden administration's EPA. Despite increasing public outcry, change is slow. It's not a good sign that President Joe Biden's EPA transition team included an ex-Dupont consultant, but there have been significant strides towards increased regulation.

"I am cautiously optimistic that, with increasing public awareness of the global PFA [PFOAs] "Forever Chemicals" public health threat, we may finally see significant steps taken at the national level to effectively address the issue and to make sure that those who actually caused this problem are held responsible," remarked Bilott earlier this month over email.

If you are interested in learning more about PFOAs, Bilott's novel "Exposure" chronicles his decades long legal battle around the chemical or you can see the film "Dark Waters" starring actor Mark Ruffalo. Want to know more about forever chemicals or what's in your water? Check out the Environmental Working Group's Tap Water Database. It is essential for the health of our communities that the Biden Administration implements strong regulations around the production and use of "forever chemicals," like PFOA.

Written by: Joe Sweeney — jmsweeney@ucdavis.edu
Disclaimer: The views and opinions expressed by individual columnists belong to the columnists alone and do not necessarily indicate the views and opinions held by The California Aggie.

Sweeping climate bill aims for zero carbon emissions by 2050
https://www.rollcall.com/2021/03/02/sweeping-climate-bill-aims-for-zero-carbon-emissions-by-2050/
By Benjamin J. Hulac
Posted March 2, 2021 at 4:39pm

'Time for small marginal change is long past,' Pallone said of the bill that touches all corners of the economy

High-ranking House Democrats unveiled legislation Tuesday to zero out domestic greenhouse gas emissions by 2050, including deep cuts in the next decade, a deadline that has support from the world's leading climate scientists.

The draft bill would set a U.S. goal to reduce greenhouse emissions by at least 50 percent, from 2005 levels, by 2030. It would also set a national goal to "achieve net-zero" emissions by mid-century and direct heads of federal agencies to come up with plans for how to meet those targets by 2050.

"We have to act decisively," Rep. Frank Pallone Jr., D-N.J., chairman of the Energy and Commerce Committee, told reporters. "The time for small marginal change is long past. If we don't take meaningful nationwide action now our children will inherit an economy and a world beyond their capacity to repair."

In the Senate, Majority Leader Charles E. Schumer, D-N.Y., used similar language on Feb. 3 to describe climate change, calling it "the existential threat of our time."

Reps. Paul Tonko, D-N.Y., and Bobby L. Rush, D-Ill., the chairmen of the panel's subcommittees on the environment and energy respectively, said there would be hearings on the bill. While the committee members said they aim to move the bill through the committee process and gain Republican support, they did not rule out using the budget reconciliation process to advance it.

'Blueprint'
"It's a plan, it's a blueprint for bringing America back into stronger leadership," Tonko said.

The legislation is the first expansive climate bill either party has offered this Congress, which has seen Democrats make climate change an early priority on Capitol Hill and in the White House. Congressional Republicans have decried President Joe Biden's steps to rein in emissions.

While China emits the most greenhouse gases of any nation now, the U.S. remains the No. 1 historical emitter.

The legislation, which would authorize $565 billion over 10 years, is more aggressive than a previous version of the bill introduced in January 2020.

Broad in scope, the new legislation covers the power, transportation, industry and manufacturing sectors, as well as environmental justice, waste reduction and financial topics.

Clean electricity
It would establish a clean electricity standard to require utility companies to generate an increasing percentage of their electricity from zero-emissions sources. The standard would reach 80 percent by 2030 and 100 percent by 2035.

Senate Democrats are expected to introduce a clean electricity standard as part of an infrastructure bill that could be the next major legislative proposal after Congress finishes work on the $1.9 trillion pandemic relief bill.

Asked about pricing carbon emissions through a tax or a cap-and-trade market, Pallone said that was not his preferred method of lowering heat-trapping gases.

"I think it's time to try something new," said Pallone. "The votes are just not there for a price on carbon."

The 981-page bill is more ambitious than the version on display last Congress in part because it would set an interim goal of cutting emissions 50 percent by 2030.

Scientists with the United Nations' Intergovernmental Panel on Climate Change, or IPCC, the leading international voice on climate, warned in a landmark 2018 report that international leaders have until 2030 to get emissions under control and halt temperatures from rising more than 1.5 degrees Celsius beyond pre-industrial levels — the threshold past which scientists say climate change gets significantly worse.

Tonko said the House committee listened to input from Biden and Vice President Kamala Harris, adding that the "[clean energy standard] is something that they believe in."

Support for standard
Lindsey Walter, deputy director for the climate and energy program at Third Way, a centrist think tank, said by phone the legislative structure of the Biden administration's climate goals are starting to emerge.

"I think it's perhaps the best policy we have in play right now to decarbonize the electricity sector," Walter said of the CES concept. "There's a lot of support behind a clean energy standard."

She said, "We're beginning to see actual legislative language being put together to enact the Biden legislative agenda."

The bill includes ten sections and hundreds of policy proposals and line items, including $2.5 billion for a "clean school bus" program at the EPA and would authorize $2.5 billion annually to increase the pace of transitioning petroleum-powered buses to zero-emissions buses, according to a summary.

It would also set a 10-year deadline for the cleanup of all federal Superfund sites vulnerable to climate change.

Phillies Announce an 8,800-Fan Capacity for First 19 Games
https://www.sportstalkphilly.com/2021/03/phillies-announce-an-8800-fan-capacity-for-first-19-games.html
03/02/2021

The news is good for Phillies fans who hope to attend games at Citizens Bank Park. As the State of Pennsylvania increased capacity at outdoor events to 20%, the Phillies were able to make more firm fans for the opening of the 2021 MLB Season at Citizens Bank Park. The Phillies announced on Tuesday that 8,800 fans may be in attendance for games.

The Phillies announced the following measures beyond the 8,800 fan capacity:

- To allow for socially distant seating, fans will be seated in pods of two, three or four people, with limited pods available for five to six people.
- All attendees age two years and older must wear a face covering over their nose and mouth at all times on ballpark property, other than when actively eating or drinking at their ticketed seats.
- All areas of the ballpark accessed by fans will be cleaned and disinfected before, during and after each game by a newly created "Clean Team" utilizing processes and products approved by the CDC and EPA specifically for use against COVID-19. Hand sanitizing stations will also be widely available.

Tickets for the first 19 games will be first offered to Season Ticket holders. The remaining tickets will be put on sale on March 12. In April, as the COVID atmosphere is a little bit clearer, they will sell games beyond the first 19 games.

The Phillies note that the tickets available could increase or decrease depending upon health protocols at that time.

EPA awards contracts to clean abandoned uranium mines on the Navajo Nation
https://www.nhonews.com/news/2021/mar/02/epa-awards-contracts-clean-abandoned-uranium-mines/
By Stan Bindell, for the Navajo-Hopi Observer
Originally Published: March 2, 2021 9:33 a.m.

FLAGSTAFF, Ariz. — The U.S. Environmental Protection Agency (EPA) announced Feb. 11 three contract awards for cleanup efforts at more than 50 abandoned uranium mine sites on and around the Navajo Nation, including at least 10 sites in Arizona and others in New Mexico.

The Navajo Area Abandoned Mine Remedial Construction and Services Contracts (AMRCS), worth up to $220 million over the next five years, were awarded to Red Rock Remediation Joint Venture, Environmental Quality Management Inc. and Arrowhead Contracting Inc.
Margot Perez-Sullivan, a spokeswoman for the EPA in San Francisco, said uranium remediation projects will take place in 10 Navajo Nation Chapters: Tolikan (Sweetwater), Round Rock, Lukachukai, Casamero Lake, Standing Rock, Teec Nos Pos,, Cove and Coyote Canyon.

U.S. Rep. Tom O'Halleran (D-AZ), said the money could clean up as many as 200 of the 500 uranium mines on the Navajo reservation that need remediation. However, O'Halleran said, with inflation, the funds may not be quite enough to remediate as many as the hoped for 200 uranium mines.

O'Halleran said there is a tremendous amount of work to do on the 500 uranium mines that are considered unsafe.

"I've seen some of those mines myself that are in terrible condition," he said.

O'Halleran said the clay surrounding the mines often crack in the sun allowing contamination to run down into washes or streams.

"The Navajo Nation is full of stories about families decimated by cancer," he said.

O'Halleran said some jobs from this project will go to tribal members.

"We worked hard to get this accomplished over time. We will make sure to get more funding," he said. "The EPA will be more active in protecting Navajo people and the Grand Canyon."

O'Halleran said it is important that the EPA respect tribal sovereignty.

"It's a plus because we want to make sure that we have the necessary money and have tribal input," he said. "We don't want the feds coming in and saying: 'We're going to do this' like they have in the past."

O'Halleran said he is concerned about the ongoing contamination of rivers and streams by uranium mines.

"We've talked about this until we're blue in the face. When we first came to Congress, nobody understood this and now they do. They know that this is life threatening. We know that children are playing in them because not all of these areas are fenced," O'Halleran said.

While he doesn't know anyone in Congress who opposes the remediation of the uranium mines, O'Halleran said it is always a question of where the funding is placed on the priority scale.

"If this was across from the (U.S.) Capitol, we wouldn't have waited 80 years for the cleanup," he said.

Deborah Jordan, acting regional administrator for the EPA's Pacific Southwest office, said in a news release that the EPA continues to work with the Navajo Nation EPA and local communities to address the legacy of abandoned uranium mines.

"These contract awards mark a significant step in this ongoing work," she said.

Most of the funding for the contracts comes from the nearly $1 billion settlement reached in 2015 for the cleanup of more than 50 abandoned uranium mine sites for which Kerr McGee Corporation and its successor, Tronox, have responsibility.

In addition to the funds from that Tronox settlement, EPA and the Navajo Nation have secured funding agreements, through enforcement agreements and other legal settlements, for the assessment and cleanup of approximately 200 abandoned uranium mine sites on the Navajo Nation.

Work is slated to begin later this year following the completion of assessments in coordination with Navajo Nation's environmental agency, the Navajo Nation EPA.

The Navajo Nation EPA has not returned calls seeking comment.

Letters: RMG chief: The metal recycling facility on the Southeast Side will not be another General Iron
https://www.chicagotribune.com/opinion/letters/ct-letters-vp-030321-20210302-2uxaumynl5ca5aiupmor6opi4u-story.html
CHICAGO TRIBUNE |
MAR 02, 2021 AT 3:17 PM

Like the activists who are on a hunger strike trying to block Chicago from issuing a permit, the editorial "The Southeast Side should not be the city's ashcan" (Feb. 24) fell victim to the temptations of false equivalence.

My company, Reserve Management Group, owns Southside Recycling, a new business in the final stages of constructing a metal recycling operation on land that RMG has owned for more than 20 years. This facility will set a new standard for environmental protection among U.S. metal shredders.

Some of the equipment that will be installed at Southside Recycling was used at General Iron. But there are stark differences between the two locations.

General Iron operated on 10 acres in Lincoln Park. Public streets ran within feet of equipment and material. Southside Recycling sits on 25 acres within a 175-acre site where RMG has operated other recycling businesses for decades without community objection. It provides ample separation from our neighbors. Expanding recycling on our revitalized brownfield actually serves the environmentalists' goal of advancing a "Green Economic Industrial Corridor."
SEE MORE
Sponsored Content by The Penny Hoarder
Opponents have invoked environmental scandals entirely unconnected to RMG in a bid to paint us as a wanton polluter. The harms done to the area by petcoke and manganese operations are tragic, but our recycling facility will not handle such materials. Attempts to associate us, and metal recycling, with such wrongdoing are exceedingly disingenuous.
Due process and the rule of law require that our permit should be granted. After more than a year of public comment periods on multiple permit applications and the city Public Health Department's new rules for large recycling facilities, our project has stood up to every challenge.

The U.S. Environmental Protection Agency is attempting to informally resolve a civil rights complaint with the Illinois EPA. However, the federal EPA made clear that its inquiry does not in any way affect our construction permit properly issued by the state EPA.

Residents may disagree on the appropriateness of rules, but there is no denying that our city permit application meets or exceeds the regulations. Opponents' rejection of recycling's environmental and economic benefits aside, the irrefutable compliance of our application alone speaks loudly in favor of granting the permit.

— Steve Joseph, CEO, Reserve Management Group, Chicago

Zoning rules and pollution

That the General Iron (Reserve Management Group) project was able to get close to approval before a serious reckoning with the pollution burdens borne by Southeast Side residents is sobering proof of the systemic environmental injustice that plague Chicago. In this case, it falls on neighborhoods bordering Lake Michigan and the 6-mile Calumet River.

Chicago can choose a different path now, and respect the health and environment of everyone who lives here. The Alliance for the Great Lakes recently released research after two years of work with partners including leaders in the fight against General Iron like the Southeast Environmental Task Force, Southeast Side Coalition to Ban Petcoke and the Southeast Youth Alliance. The evidence is clear: The health and environmental futures of Chicagoans are at risk from decades of industrial overdevelopment and under-regulation of pollution. In the Calumet industrial corridor — where Hispanic/Latino and Black residents make up about 59% and 25% of that area's population, respectively — rates of heart disease and pulmonary disease are higher than the rest of Chicago. Many residents remain "medically underserved," facing shortages of primary health care services.

Our data shows a root cause of the location of pollution: the impacts of Chicago's zoning regulations, which have been concentrating pollution sources in Black and brown communities over the last three decades. City leaders and federal agencies like Housing and Urban Development must continue investigations of how rezoning plans for the North Branch resulted in the General Iron move to the overburdened Southeast Side.

But we can't stop there. Southeast Side communities also aren't able to enjoy safe and healthy access to Chicago's great waters like the Calumet River. These problems are not new, but they merit every ounce of attention they get. To confront generational injustices, the city needs to work directly with residents to craft zoning reforms that prioritize public health and true sustainability when planning for the next uses of our precious river corridors and lakefront.

The alliance stands with the Southeast Siders demanding an end to land-use policies that perpetuate environmental racism. Stricter regulations, stronger enforcement and the use of community-generated data in making decisions are key pieces of a vision that will support the environmental, personal and economic health of people in Chicago's unique waterfront communities.

— Joel Brammeier and Olga Bautista, Alliance for the Great Lakes, Chicago

Join the conversation in our Letters to the Editor Facebook group.
Submit a letter, of no more than 400 words, to the editor here or email letters@chicagotribune.com.

Sen. Mark Kelly says he's in a position to help Native Americans
https://www.nhonews.com/news/2021/mar/02/sen-mark-kelly-says-hes-position-help-native-ameri/
By Stan Bindell, for the Navajo-Hopi Observer
Originally Published: March 2, 2021 10:08 a.m.

PHOENIX — U.S. Sen. Mark Kelly has received his committee assignments and said he will be in a position to help Native Americans on many issues such as veteran's affairs, the environment and the elderly.

Kelly, D-Ariz., has been assigned to the Armed Services Committee, Energy and Natural Resources Committee, Environment and Public Works Committee, Special Committee on Aging and the Joint Economic Committee.

Kelly put the Armed Services Committee at the top of his list as he is a 25-year Navy veteran who served as a combat pilot and astronaut.

"From Ira Hayes, to Lori Piestewa, to the Navajo Code Talkers, Arizona tribal members have sacrificed for their country with honor and distinction," he said. "As a veteran of the U.S. Navy, I have served alongside Native servicemen during my career in the Navy and I am committed to ensuring that Native Americans receive all respect, rights and benefits entitled to them during and after their service."

Kelly said he supports expanding veterans programs to ensure service reaches all tribal nations. He said rural tribes are often the most underserved with issues such as health care, homelessness, social services and national cemetery access often overlooked by the federal government.

"I believe that more field support from the VA (Veteran's Affairs) in rural areas is needed, along with a large scale expansion of broadband internet across tribal communities to increase veteran access to telehealth and remote learning programs," he said.

Kelly said it is also important for America to honor Native veterans and celebrate the legacy of Navajo Code Talkers. He supports the efforts by the Navajo Nation to establish a Navajo Code Talkers Memorial.

"Too often the Indian Health Service and the Veterans Affairs system are underfunded by Congress and unable to provide the full range of health care and veteran benefits that tribal members deserve. In the Senate, I am currently advocating for resources for tribal governments, health care, water systems and housing in this year's COVID-19 assistance package," he said.

By serving on the Energy and Natural Resources Committee, Kelly said the federal government should play a role in helping the Navajo and Hopi transition to a renewable energy economy following the closure of the coal fired Navajo Generating Station and the Kayenta Coal Mine. Kelly said the Navajo and Hopi tribes have significant solar and wind potential, which they should be encouraged to grow.

"In my new role on the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, I plan to push for renewable energy programs, mining remediation projects and climate policies that benefit tribes," he said.

From his seat on the Environmental and Public Works Committee, Kelly recently supported the advancement of Michael Regan's nomination for Administrator of the EPA.

"I spoke about the fact that the EPA should prioritize the cleanup of the roughly 500 abandoned uranium mines in the Four Corners region. And I will continue to use my seat on the EPW Committee to ensure that tribes enjoy clean water, air, and land," he said.

Kelly said he will use his seat on the Aging Committee to help with elderly issues for Navajo, Hopi and other tribes.

"The COVID pandemic has highlighted in our country just how underserved Native elders are when they seek adequate health care and other social services," he said. "I am committed to continue working with tribal communities in Arizona on ways to best help aging Native populations. I will work with Chair Casey and Ranking Member Scott on the Senate Aging Committee to make sure our committee hearings, reports and oversight include the unique needs of tribes."

$48 million Blacksnake Creek project nearing completion
https://www.newspressnow.com/news/local_news/48-million-blacksnake-creek-project-nearing-completion/article_0d2e7f76-7b7f-11eb-b9c4-0b192ba45222.html
By Quinn Ritzdorf News-Press NOW
2 Mar. 2021

After seven years and nearly $50 million spent, the Blacksnake Creek Stormwater Separation Improvement project is almost complete.

The final stage is to make improvements to the sewer outfall discharge channel, which became more complicated after the Missouri River flooded in 2019. This ultimately delayed the project for more than a year.

"The only part remaining is the delivery of the new gate that shuts that off when the river's high," said Andy Clements, St. Joseph's director of public works and transportation. "That should be in maybe April or May. When that's in, that will be complete. So (it's) pretty much all done, just kind of the final dotting the i's and crossing the t's."

St. Joseph was mandated by the Missouri Department of Natural Resources and the United States Environmental Protection Agency to address the overflow at the water treatment plant due to rising levels of creeks and streams.

"We always have been treating all the water that runs through our streams, and all the water has been running through our sewer plants, our treatment plants," said City Councilman Kent O'Dell. "By separating them, it stops the possibility of having these overflows where the sewage plant gets overwhelmed and actually starts dumping back into the river."

Cities along many major rivers, like the Missouri, suffer from this problem, and St. Joseph isn't the only one to be mandated by these agencies.

"Any city that's on the rivers, no matter what river it is, is just getting hammered on these mandates by EPA," O'Dell said. "We've just gotten beat to death and we're so much further than everybody else on getting these mandates accomplished."

The entire project cost about $48.6 million, which the city paid a majority of with bond proceeds. That price tag was the reason the project took so long.

"This Blacksnake Creek project isn't something that we had the money or the ability to do overnight," said City Councilman Brian Myers. "All the changes that we have to make involving dumping untreated sewage into the river, it's costly. We're under a mandate by the Missouri Department of Natural Resources, so we don't have a choice."

Blacksnake has been operational since July, but the final installation of the gate this spring will officially complete the long project. The Missouri Department of Natural Resources and the EPA will monitor the process and make sure it meets their regulations.

"It's been a long project," Clements said. "I'm glad to get it done and move on."

Did Trump Really Make Dishwashers Great Again?
https://www.nytimes.com/wirecutter/blog/dishwashers-trump-efficiency/
PUBLISHED MARCH 2, 2021
Liam McCabe

In October 2020, the Trump administration passed a new rule for dishwasher efficiency, claiming that it would undo "burdensome regulations" that made dishwashers slow and weak, and that it would "allow Americans to wash dishes in under an hour!" Donald Trump himself even boasted on the campaign trail: "Now you can buy a dishwasher and it comes out beautiful."

Trump was right: Today, you can buy an affordable dishwasher that does an excellent job in an hour. (We recommend several in our guide to the best dishwashers.)

But that was true even before the new rule.

Any dishwasher that you can buy today is regulated under the same "burdensome" efficiency guidelines that have been in place since 2013. And some companies still found a way to make fast, effective, and efficient machines. Trump promised to make dishwashers great again, but it turns out they were great all along.

How dishwasher efficiency (barely) changed under Trump

The Trump administration did indeed tweak the existing rules for dishwasher efficiency—a little. The Department of Energy created a new product class (PDF): fast dishwashers, defined as dishwashers that can wash and dry a load of dishes in an hour or less on their default setting. (If you're keeping score, this is actually a new regulation, not deregulation.)

Fast dishwashers are not subject to the same water- and energy-efficiency standards as conventional dishwashers because they're actually a different type of product in the eyes of the DOE. Though some environmental-advocacy groups have asserted that fast dishwashers will be exempt from any efficiency rules, the DOE confirmed with us in an email that there will be regulations—they just haven't been made yet, because that's a separate years-long process from the initial years-long process of deciding to create the new product class.

Here's a fun fact: The US government has never restricted the amount of water or energy that your dishwasher can use, except for the "normal" cycle. As long as that "normal" cycle meets the benchmarks for water and energy use on a standardized test (no more than 5 gallons of water per load and 307 kWh of energy per year with average use), the dishwasher can be sold in the US. Most people use their machine's "normal" cycle most of the time, so this rule alone conserves a lot of resources.

But no other dishwasher cycles are governed by the DOE, according to an agency spokesperson. So "heavy" or "quick" or "sensor" or any other setting that isn't defined as the "normal" cycle can use as much water or energy as the dishwasher maker likes.

Note that Energy Star is a different and completely voluntary efficiency program administered by the Environmental Protection Agency—not the Department of Energy. It limits water use for the "normal" cycle at 3.5 gallons per load and energy use at 270 kWh per year. Even though it's optional, nearly all dishwasher models sold as of early 2021 meet the Energy Star standards, including almost all of the models that already have a one-hour wash cycle. (The Trump administration did not make any changes to the Energy Star program for dishwashers.)

Most dishwashers already clean well, and some are already fast

We tested 17 popular dishwashers (the results of which we'll publish soon in our updated guide), and they all performed well on our cleaning tests on their "normal" cycles (though sometimes we had to use a higher-end detergent to get great results). We also scoured more than a thousand customer reviews for another 10 models and found very few complaints about cleaning performance at all, except for one particularly old and cheap model.

Nearly all of these models (and most dishwashers in general) have a fast-wash cycle, some of which are already as quick as 34 minutes. Usually, though, the cycle takes about an hour, especially if the dishwasher also tries to dry the dishes. Some fast cycles did perform pretty poorly in our rigorous-cleaning test, which involved a lot of stubborn, baked-on soils. The Competitive Enterprise Institute, a think tank that petitioned the DOE to create the new fast dishwasher class, correctly points out that most manufacturers recommend their machines' fast cycles only for lightly soiled loads. So the drop in performance makes sense.

But a few other brands (including Bosch, Whirlpool, and Miele) say that it's fine to use their models' fast cycles for standard loads of dishes (as long as the dishes aren't too crusty). We tested some of these models, and we often got great results—even with burnt-on soils.

These quick, effective performers weren't particularly profligate with water and energy, either. For example, Bosch's Speed60 cycle (found in some dishwashers that have been as cheap as $500 on sale) cleaned better than the "normal" cycle on some other models (including certain pricier ones). And the Speed60 mode still used just 3.8 gallons of water per cycle—more than the "normal" cycle (usually) and a bit too much for Energy Star, but well under the 5-gallon DOE limit. It also used nearly the same wash and rinse temperatures as a "normal" cycle would, so the energy use was similar, if not slightly lower because of the shorter wash time.

If your dishwasher sucks, blame the brand

Regulations for water and energy efficiency in dishwashers have been steadily tightening since the early 1990s. Sachin Sood, a former Bosch product manager, told us that it's fair to say that those restrictions, combined with bans on phosphates in detergents, are part of why "normal" cycles tend to take a couple of hours now. Extra time is the most straightforward way to clean better when you can't use much water or energy.

It's also true that some people are unhappy with their dishwasher performance. Wirecutter gets plenty of comments about this problem from readers, and the Competitive Enterprise Institute received a trove of similar complaints for the petition it put forth to the DOE.

The two trends have some relationship, but they aren't the same problem. Crappy cleaning performance and long cycles aren't an inevitable outcome of efficiency standards. If your dishwasher is slow and sucks (and a better detergent doesn't fix the problem), blame the company that built it. Several brands already make fast, high-performing dishwashers that are efficient and reasonably priced. What's everybody else's excuse? A better writer would have something pithy to say here about markets working properly.

What's next for dishwasher efficiency?

Trump's new fast-dishwasher rule could get erased before the DOE even gets a chance to set any guidelines: President Joe Biden put the rule under review on his first day in office as one target (among many other Trump-era efficiency re-regulations and sidesteps) of a massive executive order.

Before Biden even took office, several advocacy groups and states had already sued the federal government over the new rule. Joe Vukovich, an efficiency advocate at the Natural Resources Defense Council (one of the plaintiffs), described it as "an illegal end-run" around existing anti-backsliding laws that are meant to prevent the loosening of efficiency standards. The Competitive Enterprise Institute and other pro-industry groups have signaled that they'll fight to uphold the new classification in court.

The manufacturers just want the status quo: Through their trade group, they actually came out against (PDF) Trump's new fast-dishwasher rule, citing research that most owners are already happy with their dishwashers' quick cycles. The group also came out in favor (PDF) of "sunsetting" the Energy Star program for dishwashers—essentially locking the current, very efficient guidelines in place for the foreseeable future. That would free them from (what they claim is) the grind of designing for and complying with new guidelines two or three times per decade. They also claim that "products are nearing maximum energy and water efficiency under available technology" and that further tightening the guidelines would result in only "limited energy savings and very long payback periods" compared with a dishwasher that doesn't meet Energy Star standards.

Dishwashers are indeed already impressively efficient. The Obama-era DOE even declined in 2016 to tighten the dishwasher standards over the 2013 levels. The savings are especially dramatic compared with hand washing. It seems counterintuitive that an entire dishwasher cycle is more efficient than 15 minutes of manual scrubbing and rinsing, but that's how it is. The thirstiest dishwasher we know of uses about 8 gallons of water on its heavy cycle, which is about what you'd use in four or five minutes with the faucet running. The EPA

estimates an average savings of $400 in utility costs compared with hand washing over the dishwasher's lifetime, split pretty evenly between water and energy. Even if the real figure is half that much, that's pretty good for something that saves you so much time and effort, too.

If dishwashers can already be quick and efficient and not-so-tightly regulated, would anything even change if the Trump rule were to be finalized? If the goal is a one-hour wash that could consistently blast away baked-on foods even with a mediocre detergent, it sounds like the dishwashers would probably be reengineered.

Sood, the former Bosch manager, guessed that the manufacturers could push the existing designs to work harder in short cycles, but the parts might wear out too fast. Alona Wells, a current senior manager at Bosch (one of the companies that already have a great one-hour cycle), said that in theory, yes, Bosch would probably redesign the machines somewhat. Jason Mathew, a senior director at Whirlpool, said that brand would have to "tailor the design, the parts, the system, kind of the performance algorithms and tune all those to deliver that target result."

Sam Kazman, general counsel for the Competitive Enterprise Institute and the driving force behind the DOE petition, put it this way: "Ultimately, if there's really no need for faster models, then they won't sell and our opponents needn't worry. Our petition would in no way restrict the sale of today's high-efficiency machines; it would just give people an option. And judging from the comments, a lot of people want that option."

They already have it.

EPA approves new selenium standards for Lake Koocanusa
https://dailyinterlake.com/news/2021/mar/02/epa-approves-new-selenium-standards-lake-koocanusa/
By WILL LANGHORNE
The Western News | March 2, 2021 9:31 AM

The U.S. Environmental Protection Agency has given its stamp of approval to new selenium standards for Lake Koocanusa and the Kootenai River.

Laura Jenkins, media officer for EPA Region 8, said in a press statement that the federal agency backed the levels proposed by the Montana Department of Environmental Quality on Feb. 25. Under the Clean Water Act, the EPA is responsible for evaluating water quality standards proposed by state environmental agencies.

In December, DEQ's Board of Environmental Review voted in favor of reining in selenium levels for the lake and reservoir. Although significantly more restrictive than those applicable to most state waters, the levels correspond with federally advised standards and methods of approving standards for specific sites.

In a statement, EPA officials said Montana's standards for the Kootenai River now match those in place for the river in Idaho.

More than six years of research conducted by federal, state, tribal and Canadian scientists determined that levels of selenium in Lake Koocanusa and the Kootenai River were putting local aquatic ecosystems at risk. While selenium is necessary in small concentrations for animals and some plants, it can compromise the reproductive systems of certain fish species at elevated levels.

The overwhelming majority of selenium found in local waterways comes from upstream Canadian mines operated by Teck Resources. While the levels approved by the state and federal agencies will not regulate the amount of selenium dumped into waters north of the border, officials said the standards would help the federal government in its negotiations with Canada over the issue.

Local elected officials have raised concerns that the new standards are unnecessarily restrictive and could hamper development in Lincoln County. While State Sen. Mike Cuffe, R-Eureka, said he is in favor of protecting local waters, he opposed DEQ's decision in December, saying the standards could create another hurdle for timber, mining and real estate projects.

Darcy O'Connor, water division director for EPA Region 8, said in December the levels could only be used to moderate activities that could add selenium to the lake and river. During a January Libby City Council meeting, Dave Hadden, director of Headwaters Montana, said commercial work in the county would be unlikely to add selenium to the waterways due to the geology of the area.

Lincoln County Commissioner Jerry Bennett worried in December that the strict selenium standards could lead the state to declare Lake Koocanusa an impaired body of water. If this were to happen, Bennett said fishing outfitters might have trouble attracting clients.

Local guides, however, have come out in support of the new standards. Tim Linehan, of Linehan Outfitting Co., said clients had asked him about selenium in the river and reservoir before the new standards were approved. Since guides release their catch, clients aren't concerned about ingesting selenium. A steep decline in the fish populations in the river due to elevated selenium levels, however, would be a deterrent for anglers.

The Libby City Council voted down a resolution of support for the new standards during a Jan. 19 meeting. The following day, Troy City councilors expressed support for continued research.

EPA FINALIZES ALLOCATION FORMULA FOR SEWER OVERFLOW AND STORMWATER REUSE GRANTS PROGRAM

https://www.estormwater.com/combined-sewer-overflow/epa-finalizes-allocation-formula-sewer-overflow-and-stormwater-reuse-grants

BY CRISTINA TUSER
MAR 02, 2021

EPA announced an allocation formula for the Sewer Overflow and Stormwater Reuse Municipal Grants Program.

EPA published a notice in the Federal Register announcing an allocation formula for the Sewer Overflow and Stormwater Reuse Municipal Grants Program.

EPA is required to establish a formula to allocate proportional shares of amounts appropriated to state entities to fund actions that will help manage combined sewer overflows, sanitary sewer overflows, and storm water, the notice said.

The formula considers the infrastructure needs submitted in the latest EPA Clean Watersheds Needs Survey, along with additional information considered by the EPA administrator, reported the EPA. The CWNS includes and documents identified capital investment needs for SSO correction, CSO correction and storm water management.

The new allocation formula distributes funds to states based on a weighted scale, including: the most recent CWNS (50%), total population (16.7%), urban population (16.7%), and annual average precipitation (16.7%), according to the EPA.

The funding for this Program was originally authorized 20 years ago but money was never appropriated until the 2018 and 2019 America's Water Infrastructure Act process, which secured $28 million and $40 million in appropriations, according to National Association of Clean Water Agencies (NACWA).

The proposed precipitation factor for each state is the annual average amount of precipitation collected from the past 10 years of data from the National Oceanographic and Atmospheric Association (NOAA) National Centers for Environmental Information, Climate at a Glance: Statewide Time Series, according to the EPA.

For each state, the minimum state allocation and the need allocation are combined to equal the final state allocation. EPA did not change the allocation formula from its proposed version to its final version.

NACWA stated that the bulk of the allocation formula relies on the CWNS, which often has a significant time lag with its data, according to NACWA.

EPA settles case with Washington seafood processor over discharge violations
https://www.watertechonline.com/industry/food-beverage/article/14198544/epa-settles-case-with-washington-seafood-processor-over-discharge-violations
Mar 2nd, 2021

The U.S. Environmental Protection Agency recently settled with South Bend Products over federal Clean Water Act violations at the company's South Bend, Washington, seafood processing facility.

South Bend Products, a seafood preparation and processing facility, specializes in salmon and crab processing, and also periodically processes razor clams, black cod, rockfish and halibut.

EPA inspected the South Bend facility in 2017. After reviewing facility records, EPA identified violations of the South Bend facility's wastewater discharge permit, including:

- Exceeded discharge limits
- Insufficient monitoring frequency
- Incorrect sampling, and
- Incomplete or inadequate reporting

As part of the settlement, the company agreed to pay a penalty of $101,630. In addition to paying the penalty, the company has implemented new processes and technologies to address compliance challenges at its South Bend plant.

By improving its effluent treatment South Bend Products has taken steps to reduce the pollutant Total Residual Chlorine in its discharge. The company also established new sampling procedures to adequately monitor for other pollutants such as Total Suspended Solids, Biological Oxygen Demand, and Oil and Grease. Collectively, these measures serve to improve South Bend Products' discharge to the waters of Willapa River and Bay.

This settlement furthers EPA's national compliance initiative to reduce significant noncompliance and improve surface water quality by assuring dischargers comply with National Pollutant Discharge Elimination System (NPDES) permit requirements. For more information on this initiative, please visit: https://www.epa.gov/enforcement/national-compliance-initiative-reducing-significant-non-compliance-national-pollutant.

Message

From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 2/2/2021 10:55:07 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition, 2/2/21

Daily News Clips: February 2, 2021 (afternoon edition)
Biofuels
Wired: The Lion, the Polygamist, and the Biofuel Scam
Chemicals
ChemWeek: Court denies US EPA call to remand sulfoxaflor registration
Energy
JDSupra: The EPA's Clean Power Plan Is Only Mostly Dead
Water
ForwardKY: Activists call on new EPA to regulate Ohio River pollution

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Court denies US EPA call to remand sulfoxaflor registration
https://chemweek.com/CW/Document/117072/Court-denies-US-EPA-call-to-remand-sulfoxaflor-registration/goBackToCWLAT
18:54 PM | February 2, 2021 | J R Pegg

A federal appeals court has handed a victory to environmentalists challenging the EPA's registration of the insecticide, sulfoxaflor. The verdict also denies a request by the Agency to remand the approval to allow it to complete the required review of the potential impacts of legal uses of the insecticide on endangered species.

The US Court of Appeals rejected the EPA's motion to remand without comment, laying out a schedule for the case to proceed and for it to consider whether the Agency's 2019 registration amendments for sulfoxaflor violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Endangered Species Act (ESA).

Disputed data

The legal dispute stretches back to the Agency's 2013 unconditional registration for sulfoxaflor. That registration – granted to Corteva Agriscience legacy business Dow AgroSciences – swiftly drew litigation from a coalition of environmentalists and beekeepers led by the Center for Food Safety (CFS) and the Center for Biological Diversity. They argued that the EPA had classified the insecticide as "very highly toxic" to bees and lacked adequate data on the risks to pollinators.

The EPA and Dow argued that the Agency should have been shown deference to make its judgement about the risks and benefits of sulfoxaflor, but the Ninth Circuit concluded that the EPA had simply failed to follow its own rules.

In its September 2015 ruling, the Court found that the EPA had relied on "flawed and limited" data when it issued the registration and failed to adequately assess the impacts on pollinators. The Court called on the EPA to vacate the registration and obtain further studies and data regarding the effects of sulfoxaflor on bees.

The EPA revoked Dow's registration in November 2015 and then granted an amended approval in October 2016 for uses on crops that are not attractive to bees – the new licence imposed several restrictions, including buffer zones and prohibitions on tank mixing.

In July 2019, the EPA issued another registration, scrapping those mitigation measures and reinstating approvals for use on bee attractive crops – namely citrus, cotton, cucumbers, soybeans, squash, strawberries and water melons. The registration order also permitted new uses on several grains, including millet and oats, as well as on alfalfa, cacao, maize, pineapple, sorghum, and tree plantations.

Agency officials said that the benefits to growers far outweighed the risks, and more than a dozen new industry studies found little potential harm to pollinators and no need for the past restrictions. New product labels include warnings that the insecticide is "highly toxic to bees and other pollinating insects" and instructions to minimise drift, notify nearby beekeepers of planned applications and time limits on when to spray.

The EPA also required additional restrictions on citrus, flowers and some fruits to further protect bees and other pollinators.

The environmentalist groups returned to the Ninth Circuit in August 2019 with another lawsuit, alleging that the EPA had failed to provide the public an opportunity to comment on the 2019 registration as required under the FIFRA and ignored its obligations under the ESA.

Rare call for remand

The EPA moved to shift the debate in October 2020, acknowledging that it had failed to complete the required ESA review and asking the court to remand the registration to allow it to carry out its obligations. The Agency warned that farmers could turn to more harmful alternatives if sulfoxaflor was pulled from the market and suggested that it begin the ESA assessment by 2025.

The EPA argued that the ESA review could lead to additional actions under the FIFRA and said that the Court retain jurisdiction to allow for review of the pesticide law claims after the ESA analysis is complete.

"Thus, EPA is not seeking to 'get out of jail free' or otherwise evade review," the Agency told the Court.

The plaintiffs – along with a coalition of 11 states – pushed back, arguing that a remand would allow the EPA to indefinitely dodge legal review of the FIFRA allegations and urging the Ninth Circuit to deny the EPA's request.

CFS senior attorney Sylvia Wu welcomed the decision, stating that "EPA does not get to put off its legal duty just so that pesticide companies can continue to sell their toxic products".

The Court's order calls on the petitioners to file their opening briefs by February 16th.

The EPA's Clean Power Plan Is Only Mostly Dead
https://www.jdsupra.com/legalnews/the-epa-s-clean-power-plan-is-only-2033530/
By Vinson & Elkins LLP, Rachel Comeskey, Eric Groten, Patrick Traylor
2 Feb 2021

"It just so happens that your friend here is only mostly dead. There's a big difference between mostly dead and all dead. Mostly dead is slightly alive."

— Miracle Max, The Princess Bride

The Obama administration's Clean Power Plan ("CPP") — an unprecedented use of the Clean Air Act to regulate greenhouse gas ("GHG") emissions from power plants — is only "mostly dead" and could soon spring back to life. Yes, the Supreme Court stayed the CPP in 2016. And yes, the Trump administration's Affordable Clean Energy rule ("ACE") repealed the CPP in 2019. Between those two actions, the CPP seemed "all dead." But the Supreme Court's stay has almost certainly been dissolved, and the D.C. Circuit is on the verge of vacating ACE's repeal of the CPP. If and when that happens, the CPP will return to legal life. Whether and how the CPP stays dead has important consequences for the Biden administration's efforts to (re)impose GHG emission limitations on power plants.

This article explores the circumstances that could resuscitate the CPP, and what its final fate means for the Biden administration's use of the Clean Air Act to impose GHG control measures. Part I provides regulatory context and Part II summarizes the D.C. Circuit's decision on the ACE rule — readers familiar with these proceedings may safely pass over these parts. Part III discusses how the next steps in litigation over ACE will affect whether the CPP regains life. Part IV outlines options the Biden EPA has to (re)impose GHG emission limitations under the Act, depending on the outcome of the ACE litigation.

I. Context

The CPP relied on Section 111(d) of the Clean Air Act as authority to establish state-by-state budgets for GHG emissions associated with each state's assumed amount of power generation, and directed each state to come up with a plan for achieving its assigned degree of GHG intensity per unit of power production. EPA assigned GHG intensities to each state based on its assumptions of how much non-emitting or lower-emitting power production could and should penetrate the generation portfolio of that state (as well as how much each existing coal-fired plant could reduce its heat rate), and so an approvable state plan necessarily would have depended in large on dispatching non-emitting renewable generation in preference to fossil fuel-fired generation. The rule contemplated plan submittal by 2016 to achieve a first stage of reduction by 2020 and the final by 2030.

Opponents of the CPP made the following principal arguments on appeal to the D.C. Circuit:
that it limited the GHG emissions intensity of the entire power sector, rather than setting emission limitations achievable by individual power plants within that sector, arguing for a variety of textual reasons that Section 111(d) authorizes only the latter (the no going "outside the fence line" argument);
that authority for such a major rule must be found as a direct expression of authority or even obligation under a statute (the so-called "elephants in mouseholes" or "major questions" argument);
that to the extent that Congress had spoken to the EPA's authority to regulate power plant GHG emissions, it had foreclosed it by language in Section 112 of the Act that prohibits regulation of a source category under both Sections 111 and 112 (the "Section 112 preemption" argument); and
that a decision to regulate power plants under Section 111(d) required a finding of endangerment specific to power plants.

The D.C. Circuit declined to stay the CPP pending its consideration of the rule. But the Supreme Court then took the remarkable step of staying the rule "pending disposition of" the D.C. Circuit appeal. In light of the seeming inevitability of Supreme Court review, the D.C. Circuit then took the unusual step of hearing the case en banc, rather than referring it to a panel for disposition. In April 2017, the court held further proceedings in abeyance pending Trump EPA reconsideration of the CPP.

The ACE rule was the end result of the EPA's reconsideration, which the EPA finalized in July 2019. The rule obligated states to set plant-by-plant emission limitations based only on heat rate improvements applicable to each plant. The rule also repealed the CPP as unlawfully having required states to consider emission reductions through generation shifting. In September 2019, the D.C. Circuit dismissed all appeals of the CPP as moot, considering that ACE had repealed the rule. ACE was timely appealed to the D.C. Circuit, which rendered its decision on January 19, 2021, to vacate ACE and remand it to the EPA.

II. The D.C. Circuit's ACE ruling

ACE repealed the CPP based on the EPA's conclusion that Section 111 did not give it discretion to consider emission reduction measures beyond the fence line of an individual power plant. The EPA therefore replaced the CPP with a rule that required case-by-case determinations of what could be accomplished "inside the fence line" of each power plant based on improving its heat rate.

The 147-page opinion issued by the two Obama-appointed judges on the panel disagreed with the EPA's newfound conclusion that the Act did not allow it to consider "outside the fence line" measures. Because the EPA's defense of its actions rested solely on its conclusion that Section 111 unambiguously disallowed outside-the-fence-line considerations, the court determined that it was not required to defer to the EPA's reading of the statute. Instead, the court itself assessed whether the text of Section 111 unambiguously compelled the EPA's reading of the law.

After considering textual and grammatical arguments, as well as various canons of statutory interpretation, the court found that neither the plain meaning of the statute, nor Congress' intent and purpose in passing the statute, compelled the reading the EPA adopted in the ACE rule. The court also rejected the EPA's conclusion that, under the major questions doctrine, the "interpretive question raised" — whether the "best system of emission reduction" can include measures other than improvements to and at the physical source — "must be supported by a clear[] statement from Congress." The court opined that, unlike other cases that have triggered the major questions doctrine, "each critical element of the Agency's regulatory authority on this very subject has long been recognized by Congress and judicial precedent."

Finally, the court held that the federalism doctrine did not support the EPA's reading of Section 111, opining that the CPP's incorporation of generation shifting into its best system of emission reduction fell squarely within an area of the federal government's constitutional competence and that the CPP directly regulated only the amount of greenhouse gas pollutants that may be emitted into the atmosphere, an area of unique federal concern.

The court also considered two separate challenges to the EPA's authority to regulate carbon dioxide emissions under Section 111 at all. Two coal companies challenged the EPA's legal authority to enact the rule based on: (1) the EPA's failure to make an endangerment finding specific to the power sector before regulating carbon dioxide emissions; and (2) the EPA's previous regulation of mercury from power plants under Section 112, which the Coal Petitioners argued precludes the EPA from regulating greenhouse gas emissions under Section 111(d). The court rejected both arguments. The court found that the EPA made an adequate and applicable endangerment finding in the 2015 Section 111 rule imposing emission limitations on new power plants, and that the ACE rule expressly retained that finding. The panel majority also found that the Act allows the EPA to regulate a source's emission of hazardous substances under Section 112 and other pollutants emitted by the same source under Section 111(d).

Another group of Petitioners made up of think tanks and various businesses challenged the ACE rule as overstepping the EPA's authority based on the impermissible regulation of carbon dioxide emissions using Section 111 of the Act rather than by national ambient air quality standards under Sections 108 through 110. The court did not address the merits of this challenge due to a lack of standing.

Judge Walker (a Trump appointee) offered a dissent in which he expressed skepticism that Congress had authorized in Section 111 the ability to consider "off-site solutions," but avoided a direct conflict with the majority by finding the ACE rule unlawful for another reason: Judge Walker would have held that any regulation of GHG under Section 111 is precluded by Section 112.

III. The CPP could spring back to life based on the ACE appellate proceedings

Dismissal of the CPP appeals in September 2019 almost certainly ended the Supreme Court's stay of the CPP. Now that the ACE repeal of the CPP is on the verge of being vacated, the CPP is poised to spring back to life. This section discusses the litigation options that will affect whether and when the CPP does so.

The Supreme Court's CPP stay has almost certainly been dissolved
The Supreme Court's order that stayed the CPP contemplated the usual course of appellate proceedings in the D.C. Circuit — namely, a decision on the merits by the D.C. Circuit that certainly would have been appealed to the Supreme Court. The terms of the order are important, and so are set forth here in full:

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicant's petition for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicant's petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

In summary, the CPP was stayed pending disposition of the appeal in the D.C. Circuit, unless that appeal was further appealed to the Supreme Court.

On September 17, 2019, the D.C. Circuit granted a motion by various petitioners to dismiss the pending CPP appeals because the Trump administration had in July repealed it through the ACE rule. The United States supported the motion to dismiss. Upon the issuance of the mandate dismissing the petitions, the D.C. Circuit disposed of the CPP appeals. Because the Supreme Court's stay order was effective "pending disposition of the applicant's petition for review" in the D.C. Circuit and there were no petitions for a writ of certiorari appealing the dismissal, it is almost certain that dismissal of the CPP appeals satisfied the expressed conditions for dissolution of the Supreme Court's stay order. Which means that the disposition of the ACE rule appeal — largely, but not entirely — controls whether the CPP springs back to life.

What's next?
The CPP had been prevented from becoming effective by two events: the Supreme Court stay and the EPA's repeal of the rule by way of ACE. The Supreme Court stay has almost certainly been dissolved, and the D.C. Circuit is poised to vacate the ACE repeal of the CPP. The CPP is therefore on the verge of springing back to legal life, and will do so once the D.C. Circuit issues its mandate in the ACE appeal. Barring any additional proceedings in the D.C. Circuit or the Supreme Court, the mandate could be issued — and the final barrier to the effectiveness of the CPP will fall — as early as March 12, 2021. It is possible, however, that the Department of Justice will seek to hold the D.C. Circuit proceedings in abeyance — including the time period for filing a petition for rehearing and the issuance of the mandate — to give the new Administration time to review the posture of the litigation.

Supporters of the CPP will want to see that mandate issued as quickly as possible, putting the final nail in the coffin of ACE and breathing life back into the CPP. Opponents of the CPP will want to avoid or delay issuance of the ACE mandate. Here are some of the options open to the litigants.

Petition for a D.C. Circuit order vacating the mandate in the CPP appeal. Opponents of the CPP successfully persuaded the D.C. Circuit to dismiss their appeals once the ACE rule repealed the CPP. But given the January 19 decision and the impending issuance of a mandate that will bring the CPP back to life, the D.C. Circuit might be open to vacating its mandate dismissing the CPP appeals. If it does not, then there will have been no effective opportunity to litigate the merits of the CPP. If the court grants a motion to vacate its CPP mandate, then the Supreme Court's 2016 order would effectively (re)stay the CPP, because the appeal of that rule will not

have been finally disposed. If the court denies the motion, opponents of the CPP could appeal that denial to the Supreme Court, as discussed in more detail in the Supreme Court section below.

Petition for panel reconsideration of remedy. The panel opinion in effect declares the ACE rule insufficient, not unlawful. Perhaps one or more of the litigants then might seek panel reconsideration of the remedy, asking that the rule be remanded without vacatur. This would allow the ACE obligations to remain in place (with its ongoing obligations for states to develop case-by-case heat rate improvement plans) while EPA considers use of the additional authority that the panel has declared not foreclosed to the agency. If ACE is not vacated, its repeal of the CPP would not take effect.

Petition for rehearing en banc. In addition, opponents of the CPP could file a petition for rehearing the ACE rule en banc in the D.C. Circuit. The filing of a petition for rehearing automatically stays the mandate. By staying the mandate, the ACE rule's repeal of the CPP would remain effective.

Disposition of the en banc rehearing. It is possible that the en banc D.C. Circuit would grant the rehearing petition and issue an opinion affirming the ACE rule. In that case, opponents of the ACE rule/supporters of the CPP could appeal to the Supreme Court, and it is all but certain that the ACE rule (and its repeal of the CPP) would remain effective during a Supreme Court appeal. In that situation, the Biden EPA would have to find ways to delay or reconsider the ACE rule. On the other hand, it also is possible that the en banc D.C. Circuit would deny the rehearing petition (allowing the panel's decision to stand), or grant the rehearing petition but then — like the January 19 panel decision — issue an opinion vacating the ACE rule.

A motion to the D.C. Circuit for a stay of the ACE mandate pending a petition for certiorari. To avoid the issuance of the mandate upon the denial of rehearing or an en banc decision upholding the ACE rule, opponents of the CPP could file a motion in the D.C. Circuit to stay issuance of the mandate pending the filing of a petition for writ of certiorari. If granted, the ACE rule — and its repeal of the CPP — would remain effective pending disposition of the Supreme Court appeal. In that case, the CPP would remain mostly dead. If denied, opponents of the CPP would head to the Supreme Court immediately.

An application to the Supreme Court for a stay of the mandate pending a petition for certiorari. If the D.C. Circuit declines to stay the issuance of its mandate, the Supreme Court could stay the mandate pending its review of a petition for writ of certiorari. The basis for a Supreme Court stay of the mandate would be that it is likely that: (1) the substantive requirements of the ACE rule and its repeal of the Clean Power Plan are lawful (i.e., the Court agrees with the ACE rule's inside-the-fence-line argument); (2) that the Act does not authorize regulation of existing power plants at all (i.e., the Court agrees with the Section 112 preemption argument, the major question argument, or some other argument); or (3) that the Act does not authorize regulation under ACE — and by extension, the Clean Power Plan — of existing power plants on the record presented (i.e., the Court agrees that the Section 111 endangerment finding is deficient). Such a stay would be an extraordinary remedy, but not so extraordinary here, as each of the above arguments were before the Court when it granted the stay in 2016. And the Court undoubtedly would recognize that failing to stay the mandate vacating the ACE rule would cause the Clean Power Plan — a rule that the Court has already implicitly found likely unlawful — to spring back to life.

A petition to the Supreme Court to vacate the CPP dismissal mandate. There is a way for the Court to prevent the CPP from springing back to life without granting the extraordinary remedy of staying a D.C. Circuit mandate vacating the ACE rule. If the D.C. Circuit denies a petition to vacate the CPP dismissal mandate, that decision could be appealed to the Supreme Court, likely well before any en banc decision in the D.C. Circuit. The Court would then have the option to reinstate the CPP appeal by vacating the dismissal mandate and clarifying that its 2016 stay was still effective as to the CPP. That would allow the ACE appeal to proceed along the usual course without extraordinary remedies and without the risk that the CPP would spring back to life. And if the final disposition of the ACE appeal is to overturn the ACE rule, the quiescent CPP appeal could recommence.

Fresh "grounds arising after" litigation over a resuscitated CPP.
Let us suppose that the patient miraculously revives. Does that mean it will have any immediate effect on obligations to control GHG emissions from power plants? No. The Act normally allows one shot at judicial review of a final rule, and that shot was taken in the litigation that (arguably) ended when the D.C. Circuit dismissed the case in 2019. But the Act does allow for later petitions for review based on "grounds arising after" the 60-day deadline. Recall that the CPP rule as written required the submittal of plans more than five years ago, with the first wave of reductions to have been achieved in 2020, and the final GHG intensities to be achieved in 2030. The retroactive reactivation of that rule and its deadlines create an impossibility of compliance that may amount to grounds arising after sufficient to allow for new petitions for review of the CPP. This could provide the grounds for a new appeal of the CPP.

The options described above are some that could be used to stop the CPP from returning to life. Supporters of the CPP would be expected to dispute each of them vigorously. And because many of the options rely on extraordinary remedies being granted by the D.C. Circuit or the Supreme Court, supporters of the CPP have some reason for optimism for their position. That optimism rightly should be tempered by the awareness that the Supreme Court has already telegraphed skepticism about the lawfulness of the CPP.

Regardless of which of the above paths the ACE/CPP litigation takes, or some other, the onward journey will provide additional guidance on what the federal judiciary will accept or require of EPA to accomplish under cover of Clean Air Act authority. And so the Biden administration's options to (re)impose GHG limitations on power plants under the Clean Air Act depends, at least in part, on the disposition of the appeals of the CPP and the ACE rules. The next section summarizes some of those options.

IV. What next for GHG limitations for power plants?
The Biden EPA could attempt to implement the CPP. If the ACE appeal mandate issues and the CPP dismissal mandate remains in place, the Biden EPA could reasonably conclude that the Supreme Court stay of the CPP has been dissolved. The Biden EPA might then move to begin implementation of the CPP with new implementation deadlines, with those deadlines themselves likely the subject of additional litigation. But a Biden EPA is unlikely to get any closer to using Section 111 to redirect each state's generation mix than did Obama's, or at least not get it past a Supreme Court that has already stayed the rule once. Without comprehensive judicial review of the CPP, further use of Section 111(d) to regulate GHG emissions from power plants will proceed under the shadow of eventual judicial reversal, creating profound commercial and political uncertainty that would distract from broader initiatives and will be resisted by unwilling states. Accordingly, it would seem that all stakeholders would want to follow the shortest path to Supreme Court review of the Section 111(d) rules.

The Biden EPA could reconsider the CPP. If the CPP springs back to life after the ACE mandate issues, or if the D.C. Circuit remands the ACE rule without vacating it, the Biden EPA could reconsider the CPP with an eye toward adjusting its deadlines and hardening it against judicial review. A reconsidered new rule might go beyond the fence line, but perhaps not as far as reordering the dispatch of generation to favor GHG-free power. A GHG cap-and-trade model for power plants may be seen as a defensible middle ground, and would be consistent with the Bush administration's interpretation in the Clean Air Mercury Rule that Section 111(d) authorizes a multi-facility cap-and-trade program. However, a cap-and-trade program would present practical difficulties, not the least of which would be the level at which overall GHG emissions from the sector should be capped. One argument would be that the overall cap must be set at the level that represents implementation of inside the fence controls, which would not reduce GHG emissions significantly more than the ACE rule.

The Biden EPA could start over with a new CPP. The Biden EPA could start afresh with a new rule with the idea of proposing an application of Section 111(d) that could pass Supreme Court muster. This would be the cleanest way to impose GHG restrictions on power plants, though by far the most time-consuming. The EPA would most likely proceed with the assumption that the Supreme Court would impose only one limit on

authority under Section 111(d) — that the rule cannot expressly direct or rely on a reordering of a state's generation portfolio. Then the task would be to develop an approach that requires emission reductions outside the fence line but that does not require wholesale changes to generation. A cap-and-trade model might be proposed. However, this approach — like any approach based on Section 111(d) — could run into heavy seas at the Supreme Court, which might be willing to overturn a rule based on the major question doctrine, the Section 112 pre-emption argument, or new arguments based on the particulars of the new rule. By the time a new rule is ready to be proposed, it is possible that these issues will have been resolved one way or the other through the ACE appeal, giving further guidance to the EPA's options for a new rule.

The Biden EPA could reconsider the ACE rule and replace it with a new CPP. If the ACE rule is ultimately upheld on appeal or remanded without vacatur, the Biden EPA could reconsider the rule and replace it with a new rule, just as the Trump EPA reconsidered the CPP and replaced it with the ACE rule. And the Biden EPA need not wait until a final mandate in the ACE appeal is issued to begin reconsideration. That's because until the mandate actually issues (and unless the ACE rule is itself stayed), the ACE rule remains effective. The states will no doubt want to understand their obligations under whatever new rule the Biden EPA puts into place sooner rather than after spending significant resources on implementation plans.

The Biden Administration could seek a legislative solution. If there is one thing that more than a decade of EPA GHG rules and subsequent litigation have shown, it is that the Act is ill-equipped to compel significant reductions in GHG emissions. At the very least, getting anything close to even the CPP out of the Act will take many of the years available to the Biden administration, even if goes two terms, and—based on at least the current composition of the Supreme Court—the effort is ultimately unlikely to succeed. Taking the president at his word of a "climate in crisis," more than a legally controversial and Sisyphean retread of the CPP will be required to achieve the aspirational goals of the Paris Agreement. To meet these goals, the Biden campaign pledged to achieve net-zero GHG emissions and a "100% clean energy economy" by 2050. There is almost certainly no combination of rules under the Act that could drive that level of GHG emission reduction. The Biden administration could press the Congress for either "rifle shot" or comprehensive amendments to the Act that would generate unambiguous statutory authorities to regulate GHGs from the power sector (and others). With a closely divided House and Senate, the prospects of legislation in this Congress appear dim. Which leaves the Biden EPA to pursue largely symbolic — but economically inefficient and environmentally ineffective — GHG emission reduction rule options under the Act.

Activists call on new EPA to regulate Ohio River pollution
https://forwardky.com/activists-call-on-new-epa-to-regulate-ohio-river-pollution/
By Bruce Maples
February 2, 2021

The Sierra Club is petitioning the Environmental Protection Agency (EPA) to create nutrient pollution standards for the Ohio River, on which five million residents rely for drinking water.

Written by Nadia Ramlagan of Kentucky News Connection

Hank Graddy, chapter water committee chair for the Sierra Club-Kentucky, said more than 700 miles of the river currently is unusable and is posing a threat to residents' drinking water.

He believes EPA action is needed to control nutrient pollution, because Kentucky and other states in the Ohio River Basin haven't taken regulatory action.

"Many people who look at the Ohio River would identify uncontrolled discharge of nitrogen and phosphorous from agricultural activities and from municipal sewer treatment plants and from utilities as the single greatest pollution problem in the Ohio and in many places across the nation," Graddy contended.

Large algae blooms covering hundreds of miles popped up in 2015 and 2019 due to excess nutrients, according to reports from the Ohio River Valley Water Sanitation Commission.

Graddy noted the EPA has already issued nutrient caps for Chesapeake Bay and Lake Erie.

He explained blue-green algae can produce a toxin that's harmful to the liver and can cause stomach pain, nausea, vomiting and other health effects in humans, and pointed out most treatment plants lack the ability to remove the toxin from the water supply.

"It's not adequately regulated, nobody's doing anything about it, and we keep loading more and more nitrogen and phosphorous into the system," Graddy asserted.

He added tourism revenue and other economic life that a healthy river brings to the Ohio Valley are at stake.

"The Louisville riverfront, the Owensboro riverfront, the Northern Kentucky riverfront," Graddy outlined. "These are assets to the community, and we need a river that is a part of that asset."

The EPA said more than 100,000 miles of rivers and streams nationwide are impacted by excess nutrient pollution, but experts say the number probably is much higher, because only a small percentage of streams are tested.

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GREENWIRE — Thu., March 4, 2021

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RFD TV: "Sen. Grassley and Ernst weigh in on EPA Administrator nominee"

TechnoCodex: "Senators To Question Biden EPA Pick Michael Regan Over Climate Agenda"

Politico: "EPA nominee hits the Hill"

E&E News: "'He can talk to anybody': How Regan works with Republicans"

Reuters: "U.S. lawmakers to question Biden's EPA pick over climate agenda"

Grist: "In North Carolina, EPA nominee Michael Regan opened his door to activists — and industry"

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"Sen. Grassley and Ernst weigh in on EPA Administrator nominee"
https://www.rfdtv.com/story/43285348/sen-grassley-and-ernst-weigh-in-on-epa-administrator-nominee
James Ferguson

The upper chamber is working to confirm the President's pick to lead the EPA.

Michael Regan has headed the environmental agency in North Carolina for four years. Before that he served as a regulator under the Clinton and Bush administrations.

His nomination hearing is this afternoon, and Sen. Chuck Grassley says that he will ensure Regan adheres to the Renewable Fuel Standard.

According to Sen. Grassley, "By 2022, the statutory requirements of the RFS run out and will be up to EPA to set those, and I urge Regan not to do anything less than what the law requires now and hopefully more requirements for biofuels."

Senator Joni Ernst also had the opportunity to discuss Renewable Fuels with the EPA nominee, but was concerned with his answers on small refinery waivers.

"I had a conversation with the EPA nominee the other day and he basically is saying just let the courts play it out," Sen. Ernst states. "I would love to see the EPA take a little more affirmative action by saying we support renewable fuels but he wasn't ready to do that during our conversation, but we do have to see how it plays out in courts and then we go from there."

The Navigable Waters Protection Rule, which replaced the Obama Era WOTUS rule is also expected to come under scrutiny. Sen. Grassley noted Regan has a good track record of listening to farmers.

TechnoCodex
"Senators To Question Biden EPA Pick Michael Regan Over Climate Agenda"
https://technocodex.com/senators-to-question-biden-epa-pick-michael-regan-over-climate-agenda/

Stephan Roben

WASHINGTON — U.S. lawmakers will question President Joe Biden's pick to lead the nation's high environmental regulator on Wednesday with a give attention to how he'll execute the administration's purpose of decarbonizing the nation's autos and energy vegetation.

Michael Regan, 44, can be the primary Black man to lead the Environmental Protection Agency if confirmed by the Senate, and would take the reins at a time the company has been weakened by Trump-era funds and workers cuts and bitter partisan dispute over Biden's climate agenda.

"Taking the helm of EPA would be a monumental task under the best of circumstances, but it's hard to imagine a more difficult moment than right now," mentioned Sen. Tom Carper, the highest Democrat on the Senate surroundings committee.

Regan was previously head of North Carolina's environmental regulator, the place he earned a fame as a bipartisan consensus builder, and final 12 months oversaw a settlement with Duke Energy Corp. for the nation's largest clean-up of coal ash.

As EPA chief, Biden would depend on him as a key chief in a government-wide strategy to sort out international warming after 4 years throughout which his predecessor Donald Trump used the company to dismantle regulation to enhance drillers, electrical mills, miners and producers.

West Virginia Sen. Shelley Moore Capito, who is anticipated to be the highest Republican on the committee, mentioned she's going to grill Regan in regards to the administration's climate change agenda.

"I plan to ask him pointed questions about the approach the Biden administration will take and where accountability rests for these policies," she mentioned, including she was apprehensive Biden's international warming efforts would value jobs.

Biden says the shift to clear vitality shall be a net-positive for jobs and the economic system, whereas decreasing air pollution.

He has already signed a slew of climate-focused government orders, together with suspending federal drilling lease auctions and rejoining worldwide efforts to struggle climate change, and has additionally promised to zero-out energy sector emissions by 2035 and speed up electrical automotive deployment.

Politico
"EPA nominee hits the Hill"
https://www.politico.com/newsletters/morning-energy/2021/02/03/epa-nominee-hits-the-hill-793134
Kelsey Tamborrino

— Michael Regan, a North Carolina environmental regulator, heads to the Hill this afternoon where Republican senators are likely to grill him about his regulatory plans should he be confirmed as EPA administrator.

REGAN GETS THE HOT SEAT: Michael Regan, President Joe Biden's pick to lead EPA, is scheduled to go before the Senate Environment and Public Works Committee this afternoon — the first major test for the 44-year-old North Carolina Department of Environmental Quality chief who in barely two decades rose from EPA intern to nominee for the top spot at the agency that will be critical to enacting the president's sweeping climate agenda.
Regan's ties to the environmental justice community and his reputation for consensus-building were key to his selection, as well as notable wins on coal ash and toxic "forever chemicals" while leading the Tar Heel state. But not all environmentalists think he's aggressive enough, especially at a time when EPA faces the task of untangling a mass of environmental rollbacks implemented by the Trump administration.

Nominee for EPA administrator, Michael Regan, speaks on Dec. 19, 2020 in Wilmington, Del. | Photo by Joshua Roberts/Getty Images

Nominees are typically schooled in the art of non-answers, and here are a few topics ME will be watching for:

GHGs: With former President Donald Trump's Affordable Clean Energy rule tossed out by the courts and automakers promising to sit down at the table with Biden on vehicle emissions, Regan's plans for greenhouse gas pollution are sure to take a starring role today. Though he can be expected to emphatically state that human activity is the primary driver of climate change, Regan likely will avoid making any specific promises on smokestack and tailpipe emissions rules.

Environmental justice: In the climate executive order last week, Biden set the goal of ensuring that 40 percent of the benefits of federal investments in clean energy, pollution cleanup and water infrastructure reach disadvantaged communities; ME will be watching to see if Regan floats ideas for how this could be achieved through EPA programs.

RFS: Farm state senators are expected to press Regan on the Renewable Fuel Standard, particularly following Republicans' dissatisfaction with the Trump administration's ethanol actions. The RFS is an infamously sticky wicket, and the Trump administration left behind a mountain of unfinished (and overdue) business, so we would not be surprised to hear Regan utter those five little words: "I will follow the law."

PFAS: During the campaign, Biden vowed to set a mandatory drinking water limit for the toxic chemicals and designate them as hazardous under the Superfund law, but left open questions about which chemicals in the class of thousands of substances would be targeted. Regan faced a PFAS crisis in North Carolina and is intimately familiar with the challenges of not just the legacy PFAS but the newer types that have been designed to replace them and could face questions from both sides of the aisle on the topic. Worth noting: PFAS is a priority for both Chair Tom Carper and ranking member Shelley Moore Capito.

Reuters

"U.S. lawmakers to question Biden's EPA pick over climate agenda"

https://www.google.com/amp/s/mobile.reuters.com/article/amp/idUSKBN2A31N1

Valerie Volcovici

WASHINGTON (Reuters) - U.S. lawmakers will question President Joe Biden's pick to lead the nation's top environmental regulator on Wednesday with a focus on how he will execute the administration's goal of decarbonizing the country's cars and power plants.
Michael Regan, 44, would be the first Black man to lead the Environmental Protection Agency if confirmed by the Senate, and would take the reins at a time the agency has been weakened by Trump-era budget and staff cuts and bitter partisan dispute over Biden's climate agenda.
"Taking the helm of EPA would be a monumental task under the best of circumstances, but it's hard to imagine a more difficult moment than right now," said Senator Tom Carper, the top Democrat on the Senate environment committee.
Regan was formerly head of North Carolina's environmental regulator, where he earned a reputation as a bipartisan consensus builder, and last year oversaw a settlement with Duke Energy Corp for the nation's largest clean-up of coal ash.
As EPA chief, Biden would rely on him as a key leader in a government-wide approach to tackle global warming after four years during which his predecessor Donald Trump used the agency to dismantle regulation to boost drillers, electric generators, miners and manufacturers.
West Virginia Senator Shelley Moore Capito, who is expected to be the top Republican on the committee, said she will grill Regan about the administration's climate change agenda.
"I plan to ask him pointed questions about the approach the Biden administration will take and where accountability rests for these policies," she said, adding she was worried Biden's global warming efforts would cost jobs.
Biden says the shift to clean energy will be a net-positive for jobs and the economy, while reducing pollution.
He has already signed a slew of climate-focused executive orders, including suspending federal drilling lease auctions and rejoining international efforts to fight climate change, and has also promised to zero-out power sector emissions by 2035 and accelerate electric car deployment.

Grist
"In North Carolina, EPA nominee Michael Regan opened his door to activists — and industry"
https://grist.org/politics/michael-regan-epa-north-carolina-environmental-justice/
Adam Mahoney

Joe Biden has said that he wants to put America "back in the business of leading the world on climate change." On the campaign trail last year, he touted a $2 trillion clean energy recovery plan, and during his first days in office he debuted a slew of environmental executive actions. Biden has also indicated that he believes "leading the world on climate change" involves centering environmental justice — the disproportionate burden that pollution and climate change present to low-income communities and people of color.
Many of the administration's environmental justice efforts will likely pass through Michael Regan, Biden's nominee to head the Environmental Protection Agency, or EPA. Regan, who is currently secretary of North Carolina's Department of Environmental Quality, or DEQ, will face questions before the Senate on Wednesday, in advance of his confirmation vote.
Regan, who is also a former EPA official for the Clinton and Bush administrations, is poised to become the first Black man to run the EPA. He'll have his work cut out for him, inheriting an agency whose authority has been diminished by the Trump administration's relentless regulatory rollbacks and an exodus of career staffers due to a decline in agency morale.
Regan outlasted Mary Nichols, the previous frontrunner to lead Biden's EPA, primarily because he received more support from progressive leaders and environmental justice advocates. This support rested largely on Regan's record at North Carolina's DEQ, where he created the state's first Environmental Justice and Equity Board, a community advisory body intended to give underrepresented state residents a voice in environmental law enforcement.
Advocates who worked with Regan around that effort told Grist that he changed the state's culture around environmental justice by opening his doors to ordinary North Carolinians, regularly holding conversations with residents of communities near toxic sites, and prioritizing economic and environmental rejuvenation for areas facing high levels of pollution. For some advocates, however, Regan's positive work was sometimes overshadowed by his apparent deference to high-polluting industries that North Carolina political leaders saw as key pillars of the state's economy.
This balancing act is captured in a new analysis from the Environmental Data and Governance Initiative, or EDGI, a nongovernmental organization that advocates for the transparent provision of federal environmental data. EDGI's analysis of the North Carolina DEQ's enforcement actions, monetary penalties, and facility inspections found that

Regan's DEQ completed double the amount of inspections and levied hundreds of thousands of dollars more in penalties than his Republican predecessor. However, the number of enforcement actions, in which the department writes formal notices and administrative orders intended to actually remedy violations, remained about the same during both administrations.

"[DEQ] started doing a lot more inspections, which is really important because it's a key way in which violations of protection laws like the Clean Water and Clean Air Act are found. But we didn't see huge turnaround with enforcement," said Eric Nost, an EDGI researcher and assistant professor at the University of Guelph in Canada.

Nevertheless, environmental advocates in North Carolina told Grist that Regan has been a coalition-builder who's made participation in the state's regulatory process more democratic.

"The first thing I have to say is that, prior to Secretary Reagan becoming the head of the Department of Environmental Quality, there was no relationship between the agency and communities in North Carolina," said Naeema Muhammed, one of 16 inaugural members of the Environmental Justice and Equity Board that Regan started. "We didn't get a real voice until he came into office."

The decommissioned Duke Energy coal-fired steam station in Eden, NC, was the source of a 2014 coal ash spill. John D. Simmons / Charlotte Observer / Tribune News Service via Getty Images

Regan, whose own interest in environmental justice began after an asthma diagnosis as a child, used this community-centered approach while leading the DEQ in negotiations that resulted in the cleanup of the Cape Fear River, which had been contaminated with dangerous per- and polyfluoroalkyl substances (the so-called "forever chemicals" known by the acronym PFAS), and a settlement with the utility Duke Energy that led to the largest coal ash cleanup in the United States.

President Biden hopes to mimic Regan's equity work on a national level by creating an environmental and climate justice division within the Justice Department to "hold corporate executives personally accountable" for exposing workers and communities to pollution. He also plans to elevate the EPA's Environmental Justice Advisory Council, which provides advice and recommendations to the head of the EPA, to a White House entity reporting to the White House Council on Environmental Quality. That would give the council, which is composed of dozens of stakeholders from various industries, schools, and community groups, a direct relationship with the President.

Despite the DEQ's community-centered outreach, however, Regan's work in North Carolina also raised red flags for some advocates who claim that he sometimes favored industry over public health.

Lisa Ramsden, a Greenpeace senior climate campaigner in North Carolina, said that Regan developed a "mixed record on environmental justice issues" by failing to protect communities from the health impacts of living near hog farms, which

are major polluters in the state. She also cited his approval of many operating permits for carbon-intensive wood pellet mills, which can emit harmful pollutants like particulate matter and nitrogen oxides. One 2018 study found that every wood pellet mill in North and South Carolina was located in a low-income community of color; in North Carolina the facilities are concentrated in the rural northeastern corner of the state.

"Going forward, Regan and the rest of the Biden-Harris administration need to pair their lofty rhetoric on environmental justice with consistent action," said Ramsden. (The Biden-Harris administration did not respond to Grist's requests for comment.)

A logging truck enters a wood pellet plant in Ahoskie, NC. Joby Warrick / The Washington Post via Getty Images

Elizabeth Haddix, a managing attorney at the Lawyers' Committee for Civil Rights Under Law, concurred with Ramsden. She faulted Regan for renewing permits allowing hog farms to use older manure management systems that often lead to liquefied manure flowing over into nearby waterways.

Haddix was a lead attorney in a lawsuit against Regan's DEQ, alleging that the state's general permitting process for hog farms disproportionately burdened communities of color, which are more likely to be concentrated around the farms. The settlement required that the DEQ implement at least one year of ambient air quality and surface water monitoring in and around Duplin County, the region most heavily affected by pollution from swine waste. It also mandated that the DEQ publish an annual report with data from hog farm activity about the number of community complaints, DEQ investigations, and resolutions or fines levied.

The day after the lawsuit was settled, Regan announced the formation of the Environmental Justice and Equity Board, marking the start of a more community-centered approach to the agency's work, in some advocates' eyes. Nevertheless, the permits allowing hog farmers to continue using older and more polluting waste management systems continued.

"When we asked his agency to deny permits to facilities using this system, which were located in communities that are predominantly people of color, he told us that he couldn't," Haddix told Grist.

Instead of canceling permits, Regan has fined several farms for hundreds of thousands of dollars cumulatively for pollution in the year since the lawsuit concluded. Though he recently dropped a $90,000 fine on a polluting hog farm — the biggest fine for a North Carolina hog farm since 2012 — hog industry representatives publicly applauded Regan's nomination to head the EPA and thanked him for supporting the industry.

"We look forward to working with him on issues of importance to U.S. pork producers, as we continue to produce the highest-quality, most affordable, and nutritious protein in the world," said National Pork Producers Council President Howard Roth in a public statement.

Haddix believes that Regan's friendly relationship with hog farmers was a result of their economic importance to the state: The industry employs nearly 20,000 people. She hopes he'll "stand in his boots and take the courageous positions" in his new position.

Muhammed agreed, and she emphasized that the fight for environmental justice in North Carolina began before Regan and will continue after he's gone.

"We're still having meetings with [DEQ] about permits where they are not considering the cumulative impact, as well as the disproportionate impact on environmental justice communities," she said. "We just have to get them to understand that enough is enough. If somebody already owns five toxic sites, why do they need a sixth?"

Overall, Muhammed is pleased with Regan's transformation of the DEQ and is excited to see equity and justice being valued by national leaders.

"There's got to be some teeth to the leadership and changemakers over at the EPA for them to be able to make the decisions that we'll need to protect the people and environment in this country," she added. "[Regan] is well-able to do the job, and we in North Carolina are excited for him."

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Message

From: EPA Press Office [noreply@cision.com]
Sent: 3/10/2021 8:35:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: EPA to Request Additional Input on the Lead and Copper Rule

U.S. ENVIRONMENTAL PROTECTION AGENCY
NEWS RELEASE
WWW.EPA.GOV/NEWSROOM

CONTACT: press@epa.gov

EPA to Request Additional Input on the Lead and Copper Rule

This important step would ensure that EPA consults with stakeholders on protections from lead in drinking water.

WASHINGTON (MARCH 10, 2021) – Today, the U.S. Environmental Protection Agency (EPA) is announcing that it is extending the effective date of the Revised Lead and Copper Rule (LCR) so that the agency can seek further public input, particularly from communities that are most at-risk of exposure to lead in drinking water. EPA is committed to ensuring that the revised LCR protects families and communities—especially children—from lead, which can cause irreversible and life-long health effects, including decreasing IQ, focus, and academic achievement.

"The purpose of these two actions is to enable EPA to conduct a thorough review of the Revised Lead and Copper Rule and fully consult with stakeholders, including those that have been disproportionately impacted by lead in drinking water," **said EPA Acting Assistant Administrator for Water Radhika Fox**. "Exposure to lead in drinking water can be a very serious problem for children's health. It is essential that EPA takes the time now to review this important rule to ensure that we are protecting current and future generations."

EPA is committed to following the best science to address lead in the nation's drinking water and will take the appropriate time to review the revised LCR and make sure communities that have been impacted the most are protected. To accomplish this goal, EPA has posted two pre-publication notices on its website regarding the revised LCR.

The first action is a final rule that announces an extension of the effective date for the revised LCR from March 16, 2021 until June 17, 2021. The purpose of this additional time is to enable EPA to take public comment on a second action that would provide a longer extension of the effective date and for EPA to undertake its review of the rule in a deliberate and thorough manner consistent with the public health purposes of the Safe Drinking Water Act, President Biden's Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, the President's Chief of Staff's Regulatory Freeze Pending Review Memorandum, and in consultation with affected stakeholders.

The second action proposes to extend the effective date until December 16, 2021 and also proposes a corresponding extension of the revised LCR's compliance deadline to September 16, 2024. This action would ensure that drinking water systems and primacy states continue to have the full three years provided by the Safe Drinking Water Act to take actions needed to assure regulatory compliance. EPA is seeking comment on this proposal for 30 days after it publishes in the Federal Register.

Moving forward, EPA will maintain a flexible approach by learning from stakeholders, including communities that have been impacted by lead, drinking water utilities and EPA's state partners, incorporating the best available science, and adapting solutions to meet needs at the local level. EPA will deploy the full suite of our capabilities to help communities—especially low-income communities and those who have been historically disproportionately impacted by water-related challenges—reduce exposure to lead in drinking water.

For more information, visit: www.epa.gov/safewater

EPA epa.gov

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking here.
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/16/2021 12:35:10 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 16 -- Energywire is ready

Energywire -- The Transformation of the Energy Sector

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AN E&E NEWS PUBLICATION

ENERGYWIRE — Tue., February 16, 2021

READ FULL EDITION

1. ELECTRICITY:
Bitter cold overwhelms grid, leaves millions in dark

Bitterly cold temperatures and icy conditions left millions of people across Texas and several other states without power yesterday as grid operators took unprecedented steps to protect the electric system from a wider failure.

TOP STORIES

2. RENEWABLE ENERGY:
Utilities seek FERC approval for Southeast grid market

3. LAW:
EPA to scrap Obama-era power plant rule

TECHNOLOGY

4. ENERGY TRANSITIONS:
N.Y. renewable plan: A step backward for climate?

5. PEOPLE:
Trump DOE official joins biotech company

LAW

6. PIPELINES:
D.C. Circuit grills FERC on climate analysis

7. OIL AND GAS:
Court extends freeze on Alaska drilling project

OIL AND GAS

8. FINANCE:
Groups push to 'choke off' funds to Line 3 pipeline project

9. ENERGY MARKETS:
Cold weather slashes Permian oil output by 1M barrels a day

ELECTRICITY

10. BUSINESS:
GM Chevy Bolt SUV joins parade of new U.S. electric vehicles

11. ENERGY EFFICIENCY:
Report: N.H. has avoided $45M in energy costs in past decade

12. JAPAN:
Earthquake strikes near Fukushima, causing minor injuries

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To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: [WARNING: DMARC validation failed] February 8 -- Climatewire is ready

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CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Mon., February 8, 2021

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1. ENERGY TRANSITIONS:
Biden's promise for justice tested in tribal coal fields

Razing one of the nation's largest coal plants in December slashed emissions. But it also took jobs away from some of the people who are hit hardest by climate change.

TOP STORIES

2. WHITE HOUSE:
Biden pushes U.S. — and the world — to help climate migrants

3. ENVIRONMENTAL JUSTICE:
What's in a phrase? Activists weigh front line vs. fence line

IN THE STATES

4. CALIFORNIA:
State at risk of missing its climate goals, experts warn

5. MARYLAND:
Biden OKs disaster declaration related to tropical storm

CLIMATE IMPACTS

6. EXTREME WEATHER:
Wildfire smoke's economic damage lingers after the flames

INTERNATIONAL

7. FRANCE:
After floods swell rivers, government promises help

8. UNITED NATIONS:

Guterres reappoints Michael Bloomberg as climate envoy

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Climatewire is written and produced by E&E News, which is staffed by a dedicated reporting team within the POLITICO newsroom. It provides comprehensive coverage of all aspects of climate change issues. From international agreements on carbon emissions to alternative energy technologies to state and federal GHG policies to corporate sustainability, Climatewire plugs readers into the information they need to stay abreast of this complex issue. Climatewire publishes daily by 7:00 a.m.

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Message

From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 3/3/2021 4:44:41 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition, 3/3/21

Daily Media Clips: March 3, 2021 (morning edition)

Agency

Politico: EPA, CEQ nominees set for Senate grilling

Agriculture

WCIA: From the Farm: Pesticide laws

Chemicals

Fox4: Investigation links pet sickness, death to metro-made flea and tick collar
News 12: EPA: Pet collar linked to over 1,700 dog and cat deaths
kfor: Pet sickness, death linked to flea and tick collar, investigation finds
Penn Live: Popular flea collar for pets linked to 1,698 animal deaths: report
NYPost: Popular flea collar reportedly linked to 1,700 pet deaths
Local12: Report: Popular flea collar linked to nearly 1,700 pet deaths
DailyMail: Seresto flea collars are linked to 1,700 pet deaths after animals are 'poisoned' by pesticide which should be safe for cats and dogs - as owners blast EPA for 'turning a blind eye to the problem'

Emissions

CLEAN Future Act Includes RFS Provisions

Environmental Justice

WNYPapers: EPA announces availability of up to $6 million in annual environmental justice grants

Water

Progressive Farmer: Court Stay Allows Water Rule Review
CBS Denver: Elevated Levels Of 'Forever Chemicals' Found In Some Colorado Drinking Water Districts
The Ouachita Citizen: EPA releases study on benefits of river to local economy
SupplyHT: Fight for efficiency
Water Technology: Report: EPA has completed 3 of 6 actions under PFAS plan
ReedSmith: United States: EPA Indicates Intention To Regulate Certain PFAS In Drinking Water

Wildlife

isthmus: Wisconsin's wolf hunt travesty

EPA, CEQ nominees set for Senate grilling

https://www.politico.com/newsletters/morning-energy/2021/03/03/epa-ceq-nominees-set-for-senate-grilling-793725

By MATTHEW CHOI and KELSEY TAMBORRINO
03/03/2021 10:00 AM EST

EPA, CEQ NOMS WILL GET BLAST FROM THE PAST: The Senate Environment and Public Works Committee will grill President Joe Biden's nominees for Council on Environmental Quality and deputy EPA administrator this morning — and they could take a drubbing about their work during the Obama administration. Unlike pending EPA chief Michael Regan, who arrived without any ties to the Obama regulatory agenda reviled by red states, both nominees in the spotlight today will have to defend Obama-era policy choices while promoting Biden's agenda.

Nominee for chair of the Council on Environmental Quality, Brenda Mallory, speaks on Dec. 19, 2020. | Joshua Roberts/Getty Images
Janet McCabe, picked to be EPA's deputy administrator, was the agency's acting air chief under former President Barack Obama and helped write the Clean Power Plan and other major regulations; expect to hear a lot about her thoughts on EPA's authority to regulate carbon. And Brenda Mallory, the CEQ chair-designate, was a longtime EPA attorney before she was picked as CEQ's general counsel for Obama's final years in office, when major greenhouse gas guidance was issued.

The duo have plenty of bipartisan praise outside of Congress: Mallory won the backing of several Republican former EPA and CEQ officials, while McCabe picked up endorsements from a bipartisan group of former EPA deputies and 220 former agency employees. But it remains to be seen if they'll win as many Republican votes in the Senate as Regan, who cleared committee 14-6 but is still awaiting final confirmation.

ON THE HILL
ENERGY AND COMMERCE DEMOCRATS UNVEIL CLIMATE BILL: The hefty 981-page measure to combat climate change aims to take a sector-by-sector approach to eliminate carbon dioxide and reach net-zero emissions by 2050, Pro's Anthony Adragna reports. The bill builds off last year's CLEAN Future Act and calls for a federal clean energy standard that sets goals of 80 percent clean electricity by 2030 and 100 percent by 2035.

What's next: E&C Chair Frank Pallone vowed the legislation would move through regular order but notably did not take reconciliation off the table. "I mean obviously we'd like to move it through regular order — I don't rule anything out — but I'm hoping that the Republicans would participate, so we don't have to go to reconciliation," he said, adding they would continue to hold hearings and take input from Republicans on how to improve the bill. "We certainly want to hear any new ideas that the Republicans have and we will offer the opportunity to incorporate them into this bill," said Rep. Bobby Rush, chair of the Energy Subcommittee.

Rush said E&C Democrats have a "good, productive, positive history" with key senators, including Energy Chair Joe Manchin, whom they worked with on the end-of-year energy bill last year.

Rep. Paul Tonko, chair of the Environment and Climate Change Subcommittee, said the Biden administration provided "input" on the legislation and would continue to do so. Pallone also laid out this bold prediction: "I do believe that this bill has the support of all the Democrats on the committee. Some may like certain parts and not other parts, but it was put together to try to capture all the Democrats as well as some Republicans," he said. Read a section-by-section summary of the bill.

GREENS AGAINST THE FILIBUSTER: More than 70 environmental groups are calling on Sen. Chuck Schumer to abolish the filibuster, which they say in a letter to the majority leader is blocking urgent measures needed to combat climate change. "Action on the climate crisis in a way that centers environmental justice should not be obstructed by a minority of Senators representing a minority of the country," they wrote. Signatories include Climate Justice Alliance, Sunrise Movement and 350.org. Schumer fielded similar calls from advocacy groups last month, including from labor unions and progressive organizations.

AROUND THE AGENCIES
COME AND TAKE IT: Texas' power failures this winter could prompt the federal regulator to seek new reliability standards in the Lone Star State. The Federal Power Act gives FERC only limited authority in the state, but experts told Pro's Eric Wolff that there are still other avenues to make sure a similar disaster doesn't happen again, notably by instructing NERC, which develops grid standards, to create rules that force Texas generators to take measures to reduce winter weather risks. And commissioners could employ their soft power and hold technical conferences to pressure state regulators to protect the grid. Though FERC can't probe price fluctuations in the state, the Natural Gas Act allows it to dig into market manipulation through interstate pipelines, plus it can investigate the nearby MISO and SPP grid operators, which also struggled that week.

TANDEN BOWS OUT: Biden's pick for OMB director, Neera Tanden, withdrew her nomination amid mounting scrutiny over her past tweets. Sen. Joe Manchin (D-W.Va.) had said he would not support her nomination, putting her in a particularly precarious position. Hill Democrats have been pushing for Shalanda Young, deputy director of OMB, for the post. Other names floating around include Ann O'Leary, former aide to Hillary Clinton, and Gene Sperling, former economic adviser to Presidents Bill Clinton and Obama. Tanden's withdrawal came after GOP Sen. Lisa Murkowski (Alaska) "conveyed to the White House that she was going to be a no," according to CNN's Jake Tapper, citing a senior administration official.

CODE FIGHTS: The International Code Council meets today on whether to follow through on changing how energy conservation building codes are crafted. The changes would decrease input from local governments, which have previously pushed for aggressively greener building codes. The Energy Department weighed into the fight last month, trying to pause the change, which activists feared could dampen local efforts at the behest of construction and gas companies.

"ICC had set this process in place specifically to encourage increased participation. And now that they have achieved increased participation, something else seems to have been triggered that they want to take it away," Kim Cheslak, who serves as director of codes at New Buildings Institute and has participated in the code process, told ME.

Acting Assistant Secretary for Energy Kelly Speakes-Backman wrote to the ICC board that the need for the change "remains unclear" and could stunt "important economic and environmental benefits at the local level," HuffPost's Alexander Kaufman reports. But the ICC signaled an aversion to switching course in a response to Speakes-Backman shared with ME. It said a delay in the changes would throw a wrench in a whole suite of building codes the ICC is responsible for. Still, a council spokesperson told ME its board had a productive conversation with DOE on Tuesday and that the council was "committed to assisting communities in meeting their energy efficiency and greenhouse gas reduction priorities."

BIDEN BACKS TRUMP ON SOLAR: The Biden administration earlier this week backed its predecessor's move to revoke a tariff loophole created for double-sided solar panels. In a Monday filing in the U.S. Court of International Trade, the Justice Department said the court should dismiss a solar industry complaint, led by the Solar Energy Industries Association, challenging the import tariff move. DOJ attorneys argued that former President Donald Trump was "lawfully and fully within his authority" when he closed the loophole, after determining it had been "undermining the effectiveness of the safeguard measure on solar products." SEIA declined comment.

Watch this spot: A research note from ClearView Energy Partners said Tuesday the filing signals the administration is unlikely to end Trump's solar tariffs, as some in the industry had hoped. "Although one could interpret the brief as seeking to defend Biden's Executive Branch prerogatives, it may also suggest that Biden's hard line on protecting U.S. industry could continue," it said. However, ClearView said it currently regards a tariff extension as unlikely.

ADVOCACY

ABOUT THAT API CARBON PRICE: The energy world was atwitter after a news report that the American Petroleum Institute may be ready to back a price on carbon. API's saying it supports a carbon price isn't necessarily new — it has broached the subject in years past and mentioned it as a possible "market based solution" in a recent annual report — but word that it could be preparing to put its lobbying might where it's PR mouth spurred intrigue among industry lobbyists. An association spokesperson would only confirm to ME that "API and its membership continue to discuss and consider carbon pricing among other policy solutions to reduce emissions and reach the ambitions of the Paris Agreement."

Several lobbyists told ME the "leaked" news of a carbon endorsement was merely the API trying to calm warring factions among its membership, which includes a mix of international companies that may not mind a carbon tax if it keeps them in regulators' good graces and those who want to fight against it. "This is simply a case of Shell and BP pushing the API toward a progressive stance, but it is not a view that is uniformly held by API members," said one source familiar with the group's inner workings. Other lobbyists were less sure. Businesses are coming to grips that Biden at some point will propose a carbon tax, that one could be included in a reconciliation package, and that it might be better for the industry than an emissions limit companies may not be able to meet. "The position that no one supports [a carbon price] but the fruitcakes from the EU, that's definitely not the case," the person said.

BEYOND THE BELTWAY
EXXON HIT WITH $14M PENALTY FOR REFINERY AIR VIOLATIONS: Exxon Mobil must pay a $14.25 million penalty for thousands of violations of the Clean Air Act at its Baytown refinery near Houston, a judge ruled on Tuesday. The company was previously slapped with a $20 million penalty in a citizen suit brought by Environment Texas and the Sierra Club. But it convinced an appeals court to order a reconsideration by Judge David Hittner of the U.S. District Court for the Southern District of Texas, a Reagan appointee. After doing so, Hittner levied penalties of $14,251,302 (plus the green groups' expenses).

Even after chucking some of the allegations, Hittner still found more than 2,000 violations spanning 3,651 days and totaling 10 million excess pounds of airborne pollution. He also rejected Exxon's effort to blame some of the violations on Hurricane Ike, ruling that the 2008 disaster did not count as an "act of God." Exxon has already paid more than $1.4 million to state and county regulators over the violations, bringing the total to almost $15.7 million. Exxon said it is reviewing the decision and declined to say whether it will appeal again.

MAKING THE GRADE: The country's infrastructure is still not an honor student, but it's on the way up. In the American Society of Civil Engineers' new report card, overall infrastructure in the U.S. gets a C-, the first time the metric has risen out of the D range in 20 years.

The ASCE report, which comes out every four years, carries a lot of weight. It's by far the most widely cited measure of national infrastructure quality on the Hill and around the country.

Five category grades went up: Aviation (which is now up to a D+, thanks in part to increased airport investment from Congress), drinking water, energy, inland waterways and ports. Only one went down since the last report card: Bridges, which is now a C, given 46,154 bridges in the country are structurally deficient, and the roughly $125 billion repair backlog. Rail remains the highest ranked segment, at a B. And stormwater infrastructure was included for the first time, scoring a D.

Better, but still not good: "This is not a report card anyone would be proud to take home," said ASCE Executive Director Thomas Smith. "We have not made significant enough investments to maintain infrastructure that in some cases was built more than 50 years ago."

From the Farm: Pesticide laws
https://www.wcia.com/the-morning-show/from-the-farm-pesticide-laws/
by: Stu Ellis
Posted: Mar 3, 2021 / 07:56 AM CST / Updated: Mar 3, 2021 / 07:56 AM CST

ILLINOIS (WCIA) — When the Legislature is in session, all issues are on the table — and agriculture tries to keep a low profile.

Pesticide issues make both national and state headlines, and lobbyists for farm groups work hard to minimize regulatory initiatives in the General Assembly.

"Of course we have tried every year to manage dicamba effectively," says Jean Payne, President of the Illinois Fertilizer and Chemical Assoication. "This year the Department of Agriculture is going to rule-making to establish a June 20 cut-off and again an 85 degree temperature restriction.

"But because they couldn't do it with the U.S. EPA's blessing, the rule-making process kicks in, which is new for us in Illinois."

Payne says state-based rule-making for pesticides is much different than federal rule-making.

"But long term, having to amend pesticide labels using your state regulatory authority poses some problematic scenarios," says Payne. "We are going to be working very hard on stewardship in the 2021 application season so we don't end up with more legislative battles over how we use pesticides in Illinois.

"We truly want the Department of Agriculture to be the oversite agency and the U.S. EPA labels to be the ones that are the law for applicators in Illinois."

Jean Payne says dicamba herbicide became controversial because farmers were divided over its use.

"We often have our common enemies that people think of anti-agriculture, anti-pesticide groups; but the truth is there are many people within agriculture that are not happy about how these scenarios are played out. So that is what concerns me because our history in Illinois is that agriculture sticks together; and with dicamba you have the possibility of that not being the case.

"So we are going to work very hard to make sure we don't have legislative issues to deal with relative to dicamba use, or other pesticide uses including 2, 4-D, and the neonicotinoid insecticides, all the things that make the headlines in the national media every day."

Investigation links pet sickness, death to metro-made flea and tick collar
https://fox4kc.com/news/investigation-links-pet-sickness-death-to-metro-made-flea-and-tick-collar/
by: Matt Stewart, Travis Meier
Posted: Mar 3, 2021 / 07:20 AM CST / Updated: Mar 3, 2021 / 07:20 AM CST

SHAWNEE, Kan. — Could the flea and tick collar you put on your pet be hurting them? The results of a new investigation are concerning for pet owners.

Whether its man's best friends or a furry feline, pets are a part of the family, and many owners love them like their own children. When you put a flea and tick collar on them, you expect it to be safe for them to wear.

But an investigation that published this morning by the Midwest Center for Investigative Reporting along with USA Today discovered a troubling trend.

After looking over thousands of federal documents from the EPA, investigators learned there have been more than 75,000 complaints about the Seresto-brand flea and tick collar over the past nine years. They discovered close to 1,700 dogs and cats wearing this collar died.

Elanco Animal Health recently bought Bayer Animal Health, which for years did research in Shawnee on animal products like the flea and tick collar in question.

Bayer created this collar with the brand name Seresto, and Elanco now sells it. It uses two types of pesticides to kill fleas and ticks, releasing small amounts of chemicals onto your pet over time. Investigators found evidence this collar might be killing dogs and cats, too.

Elanco did not have an immediate statement in response to the investigation. FOX4 has attempted to contact the company and will provide their response when it's made available.

The United States Environmental Protection Agency regulates all products with pesticides and responded by saying they believe it is still safe enough. They noted that some warnings exist on the product's packaging. Despite the complaints, the product will stay on the market.

An EPA spokesperson said they believe some pets just might be more sensitive to this particular pesticide combination than others.

The EPA has never warned the public about this Seresto product, and there is no evidence to think the agency will anytime soon.

Not only are pets having problems with the Seresto flea and tick collar. Humans might be too. More than 1,000 people have reported health problems from it, mostly rashes.

Almost all flea and tick collars contain pesticide, so if your dog or cat are having health problems, that could be the cause. You should consult your vet before using chemicals in tandem with your pets.

Pet sickness, death linked to flea and tick collar, investigation finds
https://kfor.com/news/pet-sickness-death-linked-to-flea-and-tick-collar-investigation-finds/
by: Matt Stewart, Travis Meier, WDAF, Nexstar Media Wire
Posted: Mar 3, 2021 / 09:04 AM CST / Updated: Mar 3, 2021 / 09:04 AM CST

SHAWNEE, Kan. (WDAF) — Could the flea and tick collar you put on your pet be hurting them? The results of a new investigation suggest the answer may be yes.

Whether it's man's best friend or a furry feline, pets are a part of the family. When you put a flea and tick collar on them, you expect it to be safe. But an investigation published Wednesday by the Midwest Center for Investigative Reporting along with USA Today discovered a troubling trend.

After looking over thousands of federal documents from the Environmental Protection Agency, investigators learned there have been more than 75,000 complaints about the Seresto brand flea and tick collar over the past nine years. They found that nearly 1,700 dogs and cats wearing the collar have died.

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Popular flea collar for pets linked to 1,698 animal deaths: report
https://www.pennlive.com/life/2021/03/popular-flea-collar-for-pets-linked-to-1698-animal-deaths-report.html
Updated 7:24 AM; Today 7:24 AM

By Deb Kiner | dkiner@pennlive.com

The Seresto flea collar for animals has been linked to almost 1,700 deaths of pets, according to the Midwest Center for Investigative Reporting.
Working with USA Today, the center yesterday released a story saying, "Seresto, one of the most popular flea and tick collars in the country, has been linked to hundreds of pet deaths, tens of thousands of injured animals and hundreds of harmed humans, U.S. Environmental Protection Agency documents show.

Yet the EPA has done nothing to inform the public of the risks.

Seresto, developed by Bayer and now sold by Elanco, works by releasing small amounts of pesticide onto the animal for months at a time. The pesticide is supposed to kill fleas, ticks and other pests but be safe for cats and dogs."

The center reported that not only has the EPA received reports of 1,698 pet deaths, it also has received reports of almost 1,000 people becoming ill.

A retired EPA employee told the center, "The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation, but I think this is a significant problem that needs to be addressed sooner rather than later."

The center reported that pet owners realize too late what is causing their pet's distress. Pet owners have reported not only deaths of animals but also rashes and neurological disorders.

Popular flea collar reportedly linked to 1,700 pet deaths

https://nypost.com/2021/03/02/popular-flea-collar-reportedly-linked-to-1700-pet-deaths/
By Lisa Fickenscher
March 2, 2021 | 1:28pm

The EPA has received 75,000 incident reports about Seresto pet collars, developed by Bayer and manufactured by Elenco, since they were introduced in 2012.

A popular flea and tick collar is reportedly making thousands of pets sick and even killing some of them — and critics are blaming the Environmental Protection Agency for turning a blind eye to the problem.

The EPA, which is responsible for regulating products that contain pesticides, has received 75,000 incident reports about Seresto pet collars, developed by Bayer and manufactured by Elenco, since they were introduced in 2012, according to public records.

Those include 1,698 pet deaths and nearly 1,000 incidents involving harm to humans, according to an explosive report published Tuesday by the Midwest Center for Investigative Reporting and USA Today.

"After seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation," Karen McCormack, a former EPA official, said of the agency, according to the report. "But I think this is a significant problem that needs to be addressed sooner rather than later."

Seresto, McCormack added, "has the most incidents of any pesticide pet product" she's ever seen.

Keri McGrath, a spokeswoman for Louisville, Ky.-based Elanco, told The Post in an emailed statement that More than 25 million Seresto collars have been sold since they were approved in 2012. Figures cited in an incident report for last year amounted to "a fraction of 1 percent of users," defined by the World Health organization as "uncommon," she said.

"It is critically important to understand that a report is not an indication of cause," McGrath said. "What those numbers represent is the number of reports received, and do not reflect causality."

EPA officials appeared to downplay the incidents in a statement for the Tuesday report.

"No pesticide is completely without harm," an EPA spokesperson said, according to the report, confirming that the agency has found the Seresto collars are "eligible for continued registration."

"EPA ensures that there are measures on the product label that reduce risk," the spokesperson added. "Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

But in a statement to The Post, the agency appeared to suggest the lapse was a failure of the Trump administration.

"Under the Biden-Harris Administration EPA has returned to its core mission, which includes protecting our pets' health," the statement said. "We take every incident reported seriously and review these data to see whether action is necessary. EPA encourages pet owners to read the entire label before using the pesticide product and follow all directions carefully, including monitoring your pet after application to see if side effects occur. If side effects develop, the label tells the consumer to consult the pet's veterinarian immediately."

Rhonda Bomwell, of Somerset, NJ, said she lost her 9-year-old Papillon service dog, Pierre, after putting a Seresto collar on him in June, according to the report. A day later, Pierre had a seizure. She rushed him to the

hospital but he died before he could get treatment. Bomwell didn't think to take off Pierre's collar at the time, the report said.

"I just didn't put it together," Bomwell said.

On Amazon, the Seresto has been the top-selling collar. Nevertheless, there have been many disturbing reviews about the collar, which is worn for six to eight months and slowly releases the chemicals onto the animal.

"10 days after placing the Seresto collar on my dog, she suffered a neurological problem diagnosed as meningitis of 'unknown origin,'" one customer wrote. "She temporarily lost the use of her hind legs and vet bills have already exceeded $5,000."

Another reviewer said, "Put this collar on my 10 pound Maltese and 14 pound Shih Tzu in May 2016. Within 3 days the Shih Tzu was laying in his bed all day whining and every time I picked him up he would cry out, as if he was in pain…. take the collar off, bathe him AND by the next morning he is back to normal!!!! Called my Vet and Bayer and was told he must be allergic to an ingredient in the collar."

Report: Popular flea collar linked to nearly 1,700 pet deaths
https://local12.com/news/nation-world/report-popular-flea-collar-linked-to-nearly-1700-pet-deaths-seresto-tick-collars-usa-today-epa
by CNY Central
Wednesday, March 3rd 2021

(CNYCentral) - A popular flea collar has been linked to at least 1,698 related pet deaths and thousands of pet injuries, according to an investigative report from USA TODAY based on U.S. Environmental Protection Agency documents.

The report says that EPA documents show that Seresto, one of the most popular flea and tick collars in the country, has been linked to pet deaths, injuries, and also harmed humans.

Seresto's collar works by releasing small amounts of pesticide that is supposed to kill fleas and ticks but be safe for cats and dogs.

However, since the collars were introduced in 2012, the EPA has reportedly received incident reports of at least 1,698 related pet deaths. Overall, the agency has gotten more than 75,000 incident reports related to the collars through June 2020, including nearly 1,000 involving human harm.

An EPA spokesperson told USA TODAY that the two pesticides in Seresto have "been found eligible for continued registration."

"No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk," the spokesperson told USA TODAY in a statement. "The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

The EPA did not respond to USA TODAY's request for how Seresto compared to other flea and tick collars in terms of incidents.

Seresto flea collars are linked to 1,700 pet deaths after animals are 'poisoned' by pesticide which should be safe for cats and dogs - as owners blast EPA for 'turning a blind eye to the problem'
https://www.dailymail.co.uk/news/article-9317489/Seresto-flea-collars-linked-nearly-1-700-pet-deaths.html
By VALERIE EDWARDS FOR DAILYMAIL.COM
PUBLISHED: 14:13 EST, 2 March 2021 | UPDATED: 17:36 EST, 2 March 2021

- Report shows that the Seresto flea collars, developed by Bayer, have been linked to at least 1,698 pet deaths since being introduced in 2012
- Through June 2020, the Environmental Protection Agency received more than 75,000 major and minor injury reports related to the collars
- The EPA report also includes nearly 1,000 incidents of humans being harmed
- EPA spokeswoman said: 'No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk'
- Keri McGrath, a spokeswoman for Elanco, which sells Seresto, told DailyMail.com: 'We take the safety of our products very seriously'
- McGrath said Elanco will investigate 'potential concerns related to their use'

A popular brand of flea collars has been linked to the deaths of nearly 1,700 pets, but the US Environmental Protection Agency (EPA) has not issued a warning to the public.

According to USA Today, which cited the EPA, the Seresto flea collars, developed by Bayer, have been linked to at least 1,698 pet deaths since being introduced in 2012.
Through June 2020, the EPA received more than 75,000 major and minor injury reports related to the collars

The EPA report also includes nearly 1,000 incidents of humans being harmed while in close proximity of the collars.

Karen McCormack told USA Today that the EPA has known about these incidents for years but has not informed the public of the potential risks associated with this product.

McCormack, a retired EPA employee said: 'The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation.

'But I think this is a significant problem that needs to be addressed sooner rather than later.'

A popular brand of flea collars, Seresto (file image), that have been linked to the deaths of nearly 1,700 pets yet the US Environmental Protection Agency (EPA) has not issued a warning to the public

Rhonda Bomwell came forward to say reveal that she believes her dog, Pierre (left and right) died from wearing the collar

Last year, Bomwell bought the Bayer's Seresto flea collar for her nine-year-old Papillon service dog, Pierre, and attached it around his neck. But just a day later, Pierre had a seizure, collapsed and stopped breathing

Keri McGrath, a spokeswoman for Elanco, which sells Seresto, told DailyMail.com: 'We take the safety of our products very seriously, and thoroughly investigate potential concerns related to their use.'

She then explained what the numbers mean, saying: 'It is critically important to understand that a report is not an indication of cause. What those numbers represent is the number of reports received, and do not reflect causality.

'So, if a dog were to be wearing a collar and experience any sort of adverse event, the collar would be mentioned in the report.

McGrath then noted that 'reporting rates have actually been decreasing over the life of the product'.

'That said, we continuously monitor the safety of our products on an on-going basis,' she added.

The Seresto flea collar releases small amounts of pesticide onto the animal for months at a time in a bid to kill fleas, ticks and other pests while also being safe for the cat or dog wearing it.

Pet owners who believe their beloved dogs fell victim to the dangers of the flea collars have also come forward.

Rhonda Bomwell told USA Today that she had never used a flea collar until her veterinarian recommended she use one.

Last year, Bomwell bought the Bayer's Seresto flea collar for her nine-year-old Papillon service dog, Pierre, and attached it around his neck.

But just a day later, Pierre had a seizure, collapsed and stopped breathing. She called police who arrived to help her lift Pierre into her car. But it was too late. Pierre died before he could even receive medical treatment.

She told the news outlet that she didn't even think about the collar being a cause to his seizure, saying: 'I just didn't put it together.'

Ron Packard, of Massachusetts, also spoke to the news outlet about the loss of his two dogs. Both dogs, Danny, 10, and five-year-old Dominic, died in June 2019. Packard is pictured with both of his dogs before they died

Before their deaths, Packard said his dogs had seizures, became lethargic and started vomiting before refusing to eat. He then took them to a veterinarian who couldn't figure out what was wrong with the dogs. Both Danny and Dominic died two weeks later

While the EPA has yet to respond to a DailyMail.com request for comment on this matter, a spokeswoman for the agency told USA Today that the two pesticides - imidacloprid and flumethrin -in Seresto have 'been found eligible for continued registration'.

'No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk,' the spokesperson said.

'The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment.'

The Imidacloprid pesticide is part of a class of neonicotinoid, which are insecticides, most commonly used on crops in the US.

Imidacloprid is banned in the European Union for outdoor use.

Flumethrin is only an active ingredient in Seresto, according to EPA documents.

In addition to death, other pet owners have reported their fur friends breaking out in skin rashes and having neurological issues after using the collars.

Ron Packard, of Massachusetts, also spoke to the news outlet about the loss of his two dogs.

Both dogs, Danny, 10, and five-year-old Dominic, died in June 2019.

Before their deaths, Packard said his dogs had seizures, became lethargic and started vomiting before refusing to eat.

He then took them to a veterinarian who couldn't figure out what was wrong with the dogs.

Both Danny and Dominic died two weeks later.

In a bid to get to the bottom of what happened to his dogs, Packard retraced his steps and the only thing he could think of was that he had put the Seresto collars on both dogs just a month before their deaths.

To prevent other tragedies, Packard created a Facebook page where people can share their experiences with the Seresto collars.

While some have shared that their pets have also died, others said they managed to save their pets after picking up on what could have been causing their illnesses.

'I don't want others to go through what we went through,' Packard told USA Today. 'Every time I read the stories, it brings me back to my dogs. But if I can save a few pets, I can deal with it.'

The collars have also harmed people by causing seizures and rashes.

In one incident a 67-year-old woman who slept in a bed with a dog that was wearing a collar reported having a heart arrhythmia and fatigue.

The family of a 12-year-old boy who slept in a bed with a dog wearing a collar reported that he started having seizures and vomiting.

CLEAN Future Act Includes RFS Provisions
http://energy.agwired.com/2021/03/03/clean-future-act-includes-rfs-provisions/
CINDY ZIMMERMAN MARCH 3, 2021

Leaders of the House Energy and Commerce Committee Tuesday introduced the Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act, intended to achieve net zero greenhouse gas pollution by 2050.

The Renewable Fuels Association welcomed the inclusion of certain provisions in the legislature that would help bring more transparency and integrity to EPA's implementation of the Renewable Fuel Standard. Those provisions include requirements that EPA take more expeditious action to approve new renewable fuel pathways under the RFS, set reasonable deadlines for the submission of any small refinery waiver petitions, and ensure more transparency in the refinery waiver petition process.

RFA President and CEO Geoff Cooper said they will continue to work with the committee to promote the climate and environmental justice benefits that renewable fuels bring to the table. "In particular, we are eager to discuss the importance of fuel- and vehicle-neutral carbon performance standards that can aggressively and immediately reduce GHG emissions from the transportation sector," said Cooper.

EPA announces availability of up to $6 million in annual environmental justice grants
https://www.wnypapers.com/news/article/current/2021/03/03/145594/epa-announces-availability-of-up-to-6-million-in-annual-environmental-justice-grants
Wed, Mar 3rd 2021 09:35 am

The U.S. Environmental Protection Agency has announced the availability of up to $6 million in grant funding under The Environmental Justice Collaborative Problem-Solving (EJCPS) Cooperative Agreement Program and The Environmental Justice Small Grants (EJSG) Program.
"These grants are crucial to supporting vulnerable and overburdened communities disproportionately affected by environmental health risks," said Office of Environmental Justice Director Matthew Tejada. "With renewed leadership to address environmental justice under the Biden-Harris administration, we are excited to support community efforts to address historically challenging issues."

EPA will be giving special consideration to the following focus areas:
√ Addressing COVID-19 concerns faced by low-income communities and communities of color;
√ Climate change and natural disaster resiliency outreach and planning;
√ New applicants to either opportunity;
√ Ports initiative to assist people living and working near ports across the country; and
√ Small nonprofits.

The EJCPS Cooperative Agreement Program's total estimated funding for this opportunity is approximately $3,200,000. EPA anticipates awarding two cooperative agreements of $160,000 each within each of the 10 EPA regions. To learn more about preapplication assistance calls and how to apply for funding, visit https://www.epa.gov/environmental-justice/environmental-justice-collaborative-problem-solving-cooperative-agreement-0.

The EJSG Program estimates approximately $2,800,000 will be awarded to approximately five applications per EPA region in amounts of up to $50,000 per award. This includes the EPA's ports initiative program, which anticipates funding up to six additional projects that address clean air issues at coastal and inland ports or rail yards. To learn more about preapplication assistance calls and how to apply for funding, visit https://www.epa.gov/environmentaljustice/environmental-justice-small-grants-program.

Applicants interested in either opportunity must submit proposal packages on or before May 7 to be considered for the available funding. Applicants should plan for projects to begin on Oct. 1.

For more information on environmental justice grants, funding and technical assistance, visit https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance.

Court Stay Allows Water Rule Review
https://www.dtnpf.com/agriculture/web/ag/news/world-policy/article/2021/03/03/federal-court-stays-water-lawsuit
3/3/2021 | 10:15 AM CST
By Todd Neeley , DTN Staff Reporter

OMAHA (DTN) -- A federal court in South Carolina granted a 60-day stay in an ongoing lawsuit challenging the Trump administration's Navigable Waters Protection Rule.

The EPA and the U.S. Army Corps of Engineers asked for the stay from the U.S. District Court for the District of South Carolina to allow more time to review the rule.

The lawsuit, brought by the South Carolina Coastal Conservation League in July 2020, https://www.dtnpf.com/..., would have the effect of "dramatically reducing the universe of waters protected" by the Clean Water Act.

In the motion granted by the court on Monday, the agencies said the additional time will allow for continued review of the rule, which is largely supported by agriculture groups.

Also playing into the court's decision is the pending Senate vote on EPA Administrator nominee Michael Regan, https://www.dtnpf.com/..., who told members of a Senate committee he intends to engage the agriculture community on the rule.

The Senate has yet to set a date for the vote on Regan's nomination.

In New Mexico, a lawsuit filed by the New Mexico Cattle Growers Association also has been stayed, https://www.dtnpf.com/..., by the U.S. District Court for the District of New Mexico.

The federal government said in its motion granted this week in South Carolina that the additional 60 days allows for more time for Regan to be confirmed and to review the rule.

"Here, though the agencies were hopeful that they would have an understanding as to how the new administration plans to approach the NWPR within the parties' first 30-day continuance," the government said in its motion, "it has become apparent that the review will necessarily take some additional time. Perhaps most importantly, the EPA administrator-designate, Michael Regan, has not yet been confirmed by the Senate. Indeed, at the committee hearing on Mr. Regan's confirmation, senators repeatedly raised questions about the NWPR, demonstrating the importance of this issue to the administration and the incoming administrator."

The government said that, because the water rule is 'significant,' the agencies' new leadership "should be afforded this opportunity to consider (and potentially reconsider) their approach to the NWPR before the court considers the merits of the pending summary judgment motions. It is at least possible that the agencies' review of the NWPR may ultimately lead to a significant modification or withdrawal of the rule."

While serving as secretary of the North Carolina Department of Environmental Quality, Regan objected to the Trump administration's Navigable Waters Protection Rule.

Regan was asked during a Feb. 3 hearing before the Senate Committee on Environment and Public Works whether he supports a new WOTUS rule similar to the 2015 rule agriculture and other industries fought in court.

"There are a lot of lessons learned, pragmatic experiences or pragmatic solutions that we've learned from experiences," Regan said.

"I spent a lot of time with a lot of small farmers. I spent a lot of time with a lot of environmental groups, and what I would say is I'm looking forward to convening multiple stakeholder groups on how we chart a path forward. I don't believe that we have to sacrifice water quality at the expense of making sure that farmers, especially small farmers, have a fighting chance in this economy. I believe that you can do both."

Regan said he understands it is "difficult for any kind of federal regulation to truly address the unique agricultural needs" of different regions.

"So, I want a rule that moves forward, that's not overly burdensome, but gives the states the flexibility to protect water quality and protect the local agricultural economy," he said.

The navigable waters definition in the Clean Water Act has been the subject of numerous lawsuits.

The 2015 waters of the United States, or WOTUS, rule in particular drew attention from states attorneys general, agriculture and other industry groups that challenged the rule based on concerns it expanded the federal government's reach onto private property, https://www.dtnpf.com/….

Agriculture, other industry groups and state governments across the country alleged the WOTUS rule expanded federal jurisdiction to waters not traditionally protected by the Clean Water Act.

Even prior to the completion of the WOTUS rule, farmers and ranchers faced uncertainty as to which waters were considered jurisdictional. So far, neither Congress, nor the EPA, has been able to make the law more understandable.

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Elevated Levels Of 'Forever Chemicals' Found In Some Colorado Drinking Water Districts
https://denver.cbslocal.com/2021/03/03/chemicals-water-denver-colorado-pfas/
By Kati WeisMarch 3, 2021 at 8:48 am

(CBS4) – Poisonous "forever chemicals" have been found at levels higher than what some states say are safe in more than a dozen Colorado water districts. This, after massive statewide testing for the pollutants was conducted during the pandemic.

The technical term for forever chemicals is PFAS, which stands for perfluoroalkyl substances, and they're referred to as "forever chemicals," because one they're in the body, they don't leave, and instead build up over time. According to the EPA, "exposure to PFAS can lead to adverse health outcomes in humans."

The EPA says two types of PFAS chemicals, PFOA and PFOS, can cause cancer, birth defects, and thyroid hormone disruption.

PFAS can be found in a variety of common products, like clothing, cookware, and furniture. Pollution of those products can then lead to contamination of the water supply.

While the EPA has no legal limit for PFAS in drinking water, it recommends the level not be any higher than 70 parts per trillion for PFOA and PFOS. But eight states say that's not good enough, setting more stringent legal limits. Like Massachusetts, which has a PFAS maximum of only 20 parts per trillion for six PFAS chemicals, including PFOA and PFOS.

In Colorado, the state health department just tested 400 water districts for the very first time, touting it found no water systems had levels above the EPA's guidelines.

But CBS4 Investigates dug through the findings, learning 13 water systems have levels above the 20 parts per trillion limit Massachusetts recently set.

Those districts include Arapahoe County WWWA, with a level of 23 parts per trillion for the six PFAS chemicals regulated under Massachusetts, Forest Hills Riva Chase Water in the foothills at 26.4 parts per trillion, and Frisco Water with a level of 58.5 parts per trillion at one entry point tested.

(credit: CBS)
CBS4 Investigates reached out to those water systems, and so far has only heard back from Frisco, which said of the results, "the EPA's health advisory specifically applies to PFOA and PFOS compounds, two compounds out of the 18 PFAS compounds tested for in drinking water. Frisco's water did not test above the maximum contaminant level for the two chemical compounds in the Per- and Polyfluoroalkyl substances (PFAS) family, PFOA and PFOS, which the EPA has established guidance for at this point."

As far as next steps said, a spokesperson for Frisco said, "even though Frisco's PFOA and PFOS levels were well below the maximum set by the advisory, the Town of Frisco will be partnering with the EPA and the CDPHE to further evaluate PFAS levels and increase frequency of testing to see if they change over time. The Town of Frisco will also test PFAS levels in the blended water at various locations in the water distribution system to determine actual concentration levels at the tap, which are likely to be lower. The Town of Frisco will continue to closely follow this evolving scientific knowledge around PFAS provided by the EPA and CDPHE in order to continue to provide safe and delicious drinking water to Frisco residents and visitors."

Further analysis of the testing data shows three Colorado water systems would be above the legal limit Michigan recently set at 8 parts per trillion for PFOA. Seven other districts had levels that would trigger further testing in Michigan, due to being just under the level of 8 parts per trillion for PFOA.
CBS4 Investigates questioned John Putnam, the director of environmental programs for the Colorado Department of Public Health and Environment, about the findings.

Asked whether he thought residents in those water districts with elevated levels should be concerned, Putnam said, "at this point we don't believe they should be concerned."

"The science indicates that the 70 parts per trillion for the two chemicals included in that (EPA) health advisory provides a level below which we wouldn't expect health effects," Putnam explained. "We do know that some other states have looked at creating an even broader margin of safety. In order for us to look at doing that we have to collect the sort of information that we're collecting now to evaluate that in the future. So we're glad to be able to be added to get this data and continue reviewing the rapidly evolving science on this issue. So we can continue to protect the safety of drinking water across Colorado."

Putnam led the effort to test the 400 water districts after the state legislature appropriated funds for his agency to do so in spring 2020.

"If people are still concerned, they can look at options for themselves, they can look at bottled water for example, or reverse osmosis systems for their own home," Putnam said.

Putnam also explained the legislature appropriated some funding to assist with any mitigation efforts that might be necessary.

"We received some funding from the legislature net last year to provide a take back program to provide resources to some of the districts to help them reduce the chemicals in their drinking water," Putnam said. "And we're going to want to take all of those steps to reduce the chain or break the chain of exposure between this chemical and people's health."

PFAS is not a new issue for many people in Colorado Springs. More than a hundred people there are suing several chemical companies after they claim their water was contaminated by PFAS in fire fighting foam used nearby.

"I felt betrayed, I felt frustration, irritation," said Chris Graham, one of the plaintiffs in the suit.

Graham has lived in his home in Colorado Springs since 2005. The veteran believes his water has poisoned him over the years, causing him to have thyroid issues that have become so severe, he had to quit work.

"It does weigh on you, it weighs on your mind," Graham said. "How would it not?"

His lawyer, David McDivitt, says the lawsuit is part of a nationwide class-action suit against the harmful chemicals.

"This is one of the most significant environmental litigations that has taken place in the last several decades, it's significant because thousands of people around the country have been impacted by chemicals that have seeped into their water supply system from foam that was used by the U.S. military to help put out fires, and the chemicals were put into this foam decades and decades ago," McDivitt said.

McDivitt and Graham believe Colorado should look at passing more stringent laws to further regulate PFAS levels in drinking water across the state.

"I think it's very prudent for states to take a hard look at what's an appropriate level," McDivitt said. "I think the lower the better, because no exposure is healthy."

"Zero would be the absolute best," Graham said. "So that way, there is no more guesswork."

EPA releases study on benefits of river to local economy
https://www.hannapub.com/ouachitacitizen/news/local_state_headlines/epa-releases-study-on-benefits-of-river-to-local-economy/article_97d4bfd2-7c38-11eb-bed8-bfbea16febf2.html
3 Mar. 2021

The U.S. Environmental Protection Agency (EPA) and Ouachita Parish Police Jury recently completed a three-year ecosystem study of the Ouachita River.

The two are now releasing a report, entitled "A Deeper Look at the Ouachita River, How investment in Ouachita River infrastructure sustains human well-being in Ouachita Parish, Louisiana."

The report will serve as a planning roadmap for flood resilience and a decision-making guide for federal, state and local officials.

"Every day, we see so many benefits from the Ouachita River," said Kevin Crosby, a consulting engineer for the Ouachita Parish Police Jury. "EPA helped us better describe the economic, social and environmental value of the Ouachita River to the citizens of the Parish. This information will help demonstrate how investments in the river directly benefit people and maintain proper levels."

The report provides information and guidance on increasing community flood resilience for the unincorporated areas of Ouachita Parish, Monroe and West Monroe, La. It is based on the sustainability of the Ouachita River ecosystem. The research by federal, state and local jurisdictions aims to further preparedness efforts and help communities become more resilient. In 2018, EPA conducted two in-person workshops with community members and later held an online webinar to discuss analysis and results, before finalizing the report. The final report will help advance Ouachita Parish's roadmap to flood resilience.

"This research is a valuable tool that will guide investment in critical infrastructure that will further protect human health and the environment so Americans may continue to enjoy the benefits of nature," said EPA Acting Regional Administrator David Gray. "By forging relationships at the ground level, we are building

resiliency programs with local communities, providing the information they need to be better prepared to protect important wetlands and ecosystems when threatened with flooding."

According to the EPA report, flood control strategies on the Ouachita River should include stakeholder engagement, increase public understanding of flood control effects on important ecosystem services, and better integrate flood control options into the strategic planning processes.

Resilience plans should account for community fundamental objectives regarding important ecosystem goods and services, under the report.

Services interact with infrastructure to support community well-being, the report shows.

EPA conducted this research through the Office of Research and Development's Center for Environmental Measurement and Modeling. This center conducts research to advance the EPA's ability to measure and model contaminants in the environment, including research to provide fundamental methods and models needed to implement environmental statutes.

Shipping tonnage on the Ouachita River has dropped below 1 million since 2013.

"All commercial use of the river generates nearly $5.7 billion in annual economic activity," stated a 2017 University of Louisiana-Monroe study by Dr. Bob Eisenstadt and Dr. Paul Nelson. "All commercial use of the river returns nearly $1.2 billion in income to households in Louisiana and Arkansas."

Fight for efficiency
https://www.supplyht.com/articles/103835-fight-for-efficiency
March 3, 2021
Natalie Forster

PHCP-PVF industry continues to advocate for legislation and standards optimal for water conservation and efficiency.

PHCP-PVF professionals throughout the supply chain are always concerned with ensuring clean water is delivered to communities in an efficient manner. Thankfully, industry associations and organizations are constantly working to advocate for the best legislative and code changes that benefit the industry and the communities it serves. Aging infrastructure, balancing efficiency with water safety, maintaining and strengthening the EPA WaterSense program and reliable efficient product innovation are among the top concerns.

Infrastructure and the new administration

Christoph Lohr, vice president of strategic initiatives at IAPMO, explains there is some hope for an increased commitment to water conservation under the new administration.

"At the federal level, we are already seeing Congress, the Biden Administration and incoming agency officials place a high priority on conservation efforts," he says. "President Biden is expected to unveil his major infrastructure package, which may include critical water provisions. Further, early discussions with the new incoming U.S. EPA leadership already indicate an increased level of commitment to water conservation and plumbing resiliency."

Aging water infrastructures is a huge concern for many areas of the country. Salvatore Pennachio, eastern regional manager for Niagara Conservation, a manufacturer focused on water and energy-saving technologies, says population growth is putting strain on already aging infrastructures.

"Managing water is a growing concern in U.S. cities as they look at challenges regarding water supply, water processing and how to update aging water treatment and delivery systems," Pennachio notes. "Many states are continuing to update their standards to improve water conservation and there are a variety of federal and local incentive programs that encourage water conservation."

One example of state initiatives is that of Texas, California, Georgia and New York who have mandates for new construction requiring that toilets must be 1.28 GPF or less. Additionally, The U.S. Department of Housing and Urban Development (HUD) offers a significant Mortgage Insurance Premium Reduction (MIP) incentive when green certification and energy benchmarking are pursued.

Niagara notes its Stealth Technology innovation offers enhanced efficiency and conservation already, and it continues to improve. The vacuum-assist technology allowed Niagara to be the first to put a 0.8 GPF toilet on the market with a powerful flush that users expect. Photo courtesy of Niagara Conservation.

"Many builders are incentivized through programs like LEED and USGBC/NGBS to include toilets that are 1.0 or 0.8 GPF." Pennachio says.

Speaking to infrastructure concern, Lohr says FEMA and other government agencies are putting a premium on "resiliency" measures for buildings. "Plumbing is obviously just one component of this, but I am seeing the start of a trend that some jurisdictions are talking about it more and more. The Biden administration appears to want to tackle infrastructure issues, which means those 'downstream' will follow suit, as well."

When thinking about water efficiency, energy production and efficiency is a factor as well; pumping, heating and treating water all requires energy. Kerry Stackpole, CEO and executive director for Plumbing Manufactures International (PMI) explains the absence of sufficient energy is a concern.

"Some states have certainly started proposed legislations for 2021 including ways to promote energy efficiency," Stackpole says. "Consumers and their local legislators are pretty savvy, so I think they're stepping up to figure out solutions in those areas where energy is in limited or short supply."

Another area of infrastructure concern is building water safety. Jim Kendzel, director of codes and standards at ASA notes the association is actively engaged in several standards and guideline development processes specifically related to providing scientifically sound practices for water management systems designed to protect the water from contamination and ultimately help to reduce public health risks.

"As we continue to strive for increased water conservation and efficiency, we have found that building water systems and quality of the water within the building start to experience increased levels of contaminants mainly due to the 'water life' within the system increasing," Kendzel adds. "It's important that codes and standards, as well as regulations designed to reduce water use and set requirements for plumbing fixtures, do not go below the existing U.S. EPA WaterSense Program requirements."

According to Lohr, balancing water sustainability and water safety is vital, and the plumbing industry is at a nexus point.

"According to the EPA, showers and toilets account for almost half of the total water usage in an average home, and fixtures in restrooms account for more than a third of total water usage in an average office building.

"For so the last decade-plus we have focused entirely on water sustainability, unfortunately often in a non-holistic way. As a result, we have created conditions that likely contributed to the amplification of waterborne pathogens during that time," Lohr says. "The COVID-19 crisis exasperated these fears due to the massive number of vacant buildings with stagnant water. In addressing safety concerns we don't want to swing too far the other way, or we likely create conditions that further accelerate our water supplies drying."

Lohr explains that water efficiency is just one component of plumbing resiliency, and IAPMO has been and continues to work towards standards to find the balance between safety and sustainability.

"In 2018, IAPMO released the Water Demand Calculator (WDC), which vastly improves water efficiency by reducing the size of domestic water piping systems for the first time in 70 years," he says. "During the COVID pandemic, IAPMO worked with the American Water Works Association (AWWA) to produce the "Responding to Stagnant Water" document and is currently working on "The Manual of Best Practices for Safe Closure and Reopening of Buildings," which provides additional guidance on flushing."

WaterSense

WaterSense, created by the EPA in 2006 as a program to promote water efficiency by creating a label for consumer facing products that have been certified, continues to grow and encourage water conservation.

Stackpole again points out that consumers are becoming more and more savvy, which is reflected in the success of the WaterSense program. "There are now over 3,800 toilets that match the WaterSense specification," he says. "We've seen double digit growth in available products over the past five years, not only in toilets, but in faucets and shower heads, urinals, flushometers; almost any type of plumbing product."

Stephanie Salmon, Washington representative for PMI agrees, saying consumer demand for water efficient and money-saving products throughout the is continuing to grow. "WaterSense has a special label for homes that meet consumer efficiency demands — the WaterSense Specification for Homes," she explains. "In February, WaterSense released version 2.0 of this specification, which ensures WaterSense labeled homes are at least 30% more water-efficient than a comparable home using typical new construction."

Applicable to single-family and multifamily buildings, the version 2.0 specification increases flexibility in meeting WaterSense's technical requirements without compromising on overall water efficiency or performance, improves collaboration with green certification programs and allows for easier implementation and certification.

According to the EPA, showers and toilets account for almost half of the total water usage in an average home, and fixtures in restrooms account for more than a third of total water usage in an average office building.

"Americans are becoming more and more concerned about their water usage as several reports point to climate change and population growth causing water shortages in most of the United States," Pennachio says. "Many municipalities have rebate programs in place if residents select and install WaterSense products in their homes."

Kendzel says ASA uses WaterSense specifications as the benchmark to measure state legislative activities. "We're advocating for a national efficiency standards to avoid conflicting state and local requirements, which leads to confusion in the marketplace and increased costs for complying with varied requirements," he explains. "Our efforts this year are focused on monitoring and commenting on various state legislations, ensuring they are consistent with WaterSense specification, and the implementation dates of the legislation are based on a manufacture date and not a sell date."

Lohr again notes that plumbing fixtures must continue to become more efficient, but not at the expense of safety. "WaterSense certification will become more important to consumers, but we also need to pay attention

to our supporting infrastructure, such as the way we size the piping systems connecting to the fixture," he says. "We need to have both WaterSense products and right-size systems or we are sacrificing safety on behalf of sustainability.

Again, balance is key and plumbing resiliency is the answer."

Recent advocacy

On a federal level, Kendzel says the most significant proposed legislation is related to improving the infrastructure of water distribution systems. According to the U.S. EPA, the volume of water lost through distribution systems is 1.7 trillion gallons per year, at a cost of $2.6 billion.

"In May of 2020, ASA signed onto a statement by the Clean Water Council to the Senate Environmental and Public Works Committee, urging increased funding for America's Water Infrastructure Act of 2020 (AWIA) and the Drinking Water Infrastructure Act of 2020 (DWIA)." Kendzel explains.

Additionally, ASA recently joined the Alliance for Water Efficiency (AWE) and worked appeal on recent decisions made by the Department of Energy related to the interpretation of the testing of multi-head shower heads. Kendzel notes that since at least 2011, DOE has been clear that showerhead manufacturers and distributors may only sell showerheads in the U.S. with a maximum flow rate of 2.5 gpm, regardless of how many nozzles the showerhead may have.

Kendzel adds that DOE's redefinition of "showerhead" would put ASA members at a significant competitive disadvantage. "Foreign manufacturers are and have been free to manufacture and distribute showerheads outside the U.S. that exceed the Energy Policy and Conservation Act standards," he says. "ASA and its members are concerned about foreign products ready for sale and distribution in the U.S. that take advantage of DOE's 'showerhead' redefinition, but would not have been compliant under the previous rule."

The showerhead rule, AWE notes, would also waste billions of gallons of water, causing spikes in consumers water bills and compromising water availability.

Focuses for the year ahead

As 2021 continues, especially under the new administration, PHCP-PVF industry advocates have many goals in terms of water efficiency.

"Education is who we are at PMI, and that'll continue to be the focus moving forward," Salmon says. "There are almost 70 new lawmakers, including some in states like Georgia where we have a really strong presence. So we have reached out and will continue to reach out to educate these lawmakers about the great things our industry is doing."

Salmon notes PMI plans to have meetings with the Department of Energy, the EPA and the department of transportation in order to advocate for water infrastructure spending and to help get water-efficient products and supplies where they need to go.

Kendzel says ASA is engaged in several codes and standards updates regarding water efficiency and conservation. "Recently, I had the opportunity to chair a task group which developed draft proposals for the alternative water sources," he notes. "Specifically, the proposals address requirements for blackwater recycling equipment and storm water recycling equipment. The proposed changes have been submitted for consideration and adoption to IAPMO and Water Efficiency Standard (WE-Stand)."

On the product development side, Niagara explains flush performance, reliability, cleanliness and efficiency are all top-of-mind when designing toilets. "Our patented Stealth Technology has answered consumer concerns," Pennachio says. "The vacuum assist technology utilizes both air and water to create a powerful, quiet flush, an extra-large water spot and superior line carry at only 0.8 GPF."

All parties agree education and research are key for the continued push for efficient and safe water usage. "ASA is advocating for research initiatives related to the impact of increased water efficiency and reduced consumption on the entire building plumbing system," Kendzel notes. "As the use of recycled water continues to grow within the building environment, it is critical that the recycled water is maintained to specific quality characteristics to ensure it does not have a negative impact on the performance and life of the plumbing system and its fixtures."

Lohr stresses the importance of education within the industry. "In order for industry to take the next step and find balance between sustainability and safety, we need to be smarter and think more holistically," he says. "This means attracting and retaining the brightest and best. It likely means everyone's job will require more from them, but we don't really have a choice — especially as water shortages and increasing water quality issues loom."

Report: EPA has completed 3 of 6 actions under PFAS plan
https://www.watertechonline.com/industry/article/14198630/report-epa-has-completed-3-of-6-actions-under-pfas-plan
Mar 3rd, 2021

The Government Accountability office recently released a report finding that the Environmental Protection Agency (EPA) has completed three of six selected regulatory-related actions for addressing per- and polyfluoroalkyl substances (PFAS) outlined in EPA's PFAS Action Plan . For two of the three completed actions, the steps EPA took were also in response to the National Defense Authorization Act for Fiscal Year 2020 (FY20 NDAA):

After proposing a supplemental significant new use rule in February 2020, EPA met a June 2020 deadline set in the FY20 NDAA when the EPA Administrator signed the final rule. Among other things, under the final rule, articles containing certain PFAS as a surface coating, and carpet containing certain PFAS, can no longer be imported into the U.S. without EPA review.

EPA incorporated 172 PFAS into the Toxics Release Inventory in June 2020. The FY20 NDAA directed EPA to take this action, extending EPA's original planned action to explore data for listing PFAS chemicals to the inventory.

Finally, in March 2020, EPA completed a third regulatory-related action, not required under the FY20 NDAA, when the agency proposed a preliminary drinking water regulatory determination for two PFAS—an initial step toward regulating these chemicals in drinking water.

Status of Six Selected Regulatory-Related Actions in the Environmental Protection Agency's (EPA) Per- and Polyfluoroalkyl Substances (PFAS) Action Plan

Source: GAO analysis of EPA's 2019 PFAS Action Plan. | GAO-21-37

Three of the six selected regulatory-related actions are ongoing, and EPA's progress on these actions varies. For example:

As of August 2020, EPA was developing a proposed rulemaking for a nationwide drinking water monitoring rule that includes PFAS, which EPA officials said the agency intends to finalize by December 2021.

EPA planned to continue the regulatory process for designating two PFAS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act, would allow the agency to require responsible parties to conduct or pay for cleanup. On January 14, 2021, EPA issued an advance notice of proposed rulemaking for the hazardous substances designation to get public comment and data to inform the agency's ongoing evaluation of the two PFAS.

Beginning in the 1940s, scientists developed a class of heat- and stain-resistant chemicals—PFAS—that are used in a wide range of products, including nonstick cookware, waterproof clothing, and some firefighting foams. PFAS can persist in the environment for decades or longer. The Centers for Disease Control and Prevention has found that most people in the U.S. have been exposed to two of the most widely studied PFAS, likely from consuming contaminated water or food. According to EPA, there is evidence that continued exposure above certain levels to some PFAS may lead to adverse health effects. In February 2019, EPA issued its PFAS Action Plan , which outlined 23 planned actions to better understand PFAS and reduce their risks to the public.

GAO was asked to examine the status of regulatory-related actions in EPA's plan. For six regulatory-related actions GAO selected in EPA's PFAS Action Plan , this report examines (1) the number of actions that are complete and the steps EPA took to complete them and (2) the number of actions that are ongoing and EPA's progress toward completing them. GAO first identified those actions in the PFAS Action Plan that may lead to the issuance of federal regulations or could affect compliance with existing regulations. GAO then assessed the status of the actions by reviewing EPA documents and examining EPA's response to related FY20 NDAA requirements.

To read the full report, go to https://www.gao.gov/assets/720/712011.pdf

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United States: EPA Indicates Intention To Regulate Certain PFAS In Drinking Water
https://www.mondaq.com/unitedstates/environmental-law/1042380/epa-indicates-intention-to-regulate-certain-pfas-in-drinking-water
03 March 2021
by Megan Haines , Daniella D. Landers , Todd Maiden , Benjamin H. Patton , Jennifer Smokelin and Phillip Babich

The EPA is moving towards establishing a drinking water standard for PFOA and PFOS, and has stated that it is considering avenues for regulating additional groups of PFAS under the Safe Drinking Water Act (SDWA) as well. On February 22, 2021, the EPA announced two actions under SDWA to address PFAS.

First, the agency reissued the final regulatory determination to implement a National Primary Drinking Water Regulation (NPDWR) for PFOS and PFOA (the "Determination"). This Determination is a continuation of an intended action under the Trump administration, but indicates the Biden administration intends to continue to move forward. The Determination also states that the EPA is considering the regulation of additional PFAS chemicals.

In a related move, on the same day, the EPA indicated an even stronger focus on this issue than the previous administration. The EPA revised the proposed fifth SDWA-directed review under the Fifth Unregulated Contaminant Monitoring Rule (UCMR 5) to include an additional 29 PFAS chemicals. The proposed UCMR 5, once published in the Federal Register, will be subject to a 60-day public comment period. If promulgated, the UCMR 5 will impose data collection obligations on public water systems of a certain size. When completed,

that data collection can serve as part of the underpinning for additional SDWA actions, including adding chemicals to the Contaminant Candidate List and potentially regulating those chemicals under the SDWA. The action is unusual in targeting and potentially regulating a family of chemicals in that the list of potential contaminants is specifically focused on PFAS. The February 22nd regulatory determination triggers a rulemaking that, in the past, has often resulted in the establishment of a maximum contaminant level for the contaminants on which the rile focused.

Feel free to reach out to your regular Reed Smith contact with any questions.

Wisconsin's wolf hunt travesty
https://isthmus.com/opinion/citizen-dave/wisconsins-wolf-hunt-travesty/
BY DAVE CIESLEWICZ
MARCH 3, 2021

There was no biological or social imperative for a hunt. It only happened because some hunters just wanted to kill wolves.

I am a Wisconsin hunter and I am embarrassed and disgusted at what took place in my state last week with a rushed and ill-considered wolf hunt.

The Milwaukee Journal Sentinel's outdoor writer, Paul Smith, has written an excellent account of the history that got us to this point. But "this point" is carnage that exceeded the Department of Natural Resources' harvest goals by an astounding 82 percent.

Don't blame the DNR's wildlife professionals for that. They wanted to delay the hunt until November to give them adequate time to set proper limits, consult with Native American tribes, and administer the program correctly. But they were overruled by the courts, legislators and their own bosses on the Natural Resources Board.

"Never before had the DNR put together an application period and drawing for a hunt in such a short period of time," Smith writes. "It compromised the agency's legal requirement to consult with Native American tribes.

"And never before had the state held a hunting and trapping season during the wolves' breeding season."

To make matters worse, almost 90 percent of those wolves were hunted with dogs. Most ethical hunters would consider that to be out of bounds, unless you were trying to track down wolves that had been known to kill domestic animals. And to those who would say that it is very hard to find wolves without dogs, I'd say: Yes. It's hard. That's what makes it hunting instead of a video game.

A quick summary of the lengthy story recounted by Smith goes like this. On Jan. 4, the Trump EPA delisted the gray wolf as endangered. Wisconsin law requires that, when these federal protections come off, the DNR must schedule a hunt between the beginning of November and the end of February. (This is a bad law. DNR scientists and wildlife managers should make this decision, not legislators.)

DNR staff told agency policy makers that that did not give them enough time to put together a hunt by February. They recommended waiting for November. The board went along, but then a Kansas-based extremist group called Hunter Nation (Ted Nugent is on its board; enough said) sued and Wisconsin courts agreed that the DNR had no authority to delay the hunt. The result is this awful mess: a harvest quota grossly exceeded, tribal relations damaged, and the general non-hunting public appalled.

According to the DNR, wolves took only 152 domestic animals last year and their owners were well compensated by the public with payments totaling $1.8 million. And many of those animals were dogs used to hunt bear, another unethical hunting practice. Finally, Wisconsin law already allows anyone to shoot a wolf at any time if the wolf is threatening a domestic animal.

On the other hand, the wolf population now stands at over 1,000 and, even with the exceeded quotas, the department isn't worried that the population will crash. But obviously we can't exceed harvest quotas by this much every year.

But let's be honest: There was no biological or social imperative for a hunt. It only happened because some hunters just wanted to kill wolves.

Extremist groups like Hunter Nation should understand that they may have unwittingly helped end wolf hunts for a good long time into the future. This kind of thing will, no doubt, be used to push the Biden EPA to relist the gray wolf, thereby automatically ending Wisconsin's wolf hunt. Under the circumstances, I'd be for that.

If you accept the idea that hunting is okay (as about 70 percent of Americans do), then responsible policy makers should regulate it in a way that is sustainable for the species, is consistent with the ethical tradition of "fair chase," and also respects the prevailing cultural values of the public at large.

The rushed wolf hunt travesty of last week honored none of those goals.

Message

From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 3/8/2021 4:43:29 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition, 3/8/21

Daily Media Clips: March 8, 2021 (morning edition)

Administrator

KMA Land: Regan confirmation vote likely this week

Agency

The Verge: HOW SCIENTISTS SCRAMBLED TO STOP DONALD TRUMP'S EPA FROM WIPING OUT CLIMATE DATA

Biofuels

NGT News: House Biofuels Caucus Looks to Expand Biofuel Access

Chemicals

Inform: 'Forever chemicals' contaminate sites across North Dakota, including in Fargo

Report: Popular flea & tick collar tied to 1,700 pet deaths, EPA received more than 75,000 complaints

Climate

Press Reality: Scientists formed EDGI to stop Trump's EPA from wiping out climate data

Environmental Justice

Mirage: Algorithmic approaches for assessing pollution reduction policies can reveal shifts

Financial Post: Far from White House, Caribbean refinery to test Biden's promises on poverty and pollution

Superfund

Authorities Shut Down Illegal Rave on Contaminated Superfund Site in Ridgewood

NBC15: Hundreds of toxic sites at risk for flooding, which could endanger surrounding communities

Waste

Waste Dive: CLEAN Future Act leads possible string of bills linking recycling issues to climate efforts

SF Chronicle: Hawaii department fined nearly $222K for operating cesspools

Water

A Novel, Colloidal Form of Activated Carbon Demonstrates Effective, In-Place Removal of PFAS From Groundwater

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Regan confirmation vote likely this week

https://www.kmaland.com/ag/regan-confirmation-vote-likely-this-week/article_e712603a-8026-11eb-aedb-4fc6665a9c12.html

8 Mar. 2021

(Washington, D.C.) -- EPA nominee Michael Regan will likely get a Senate confirmation vote later this week after Senate Majority Leader Chuck Schumer filed cloture Saturday on his nomination.

Reports say Senators will vote to advance Regan's nomination as EPA Administrator on Wednesday afternoon with a confirmation vote before the full Senate expected by Thursday. In a press call with farm reporters Monday morning, Iowa Senator Chuck Grassley said he plans to vote 'yes' for Michael Regan.

"Unless something comes out here in the next two days, I expect to support him," Grassley said. "I'm not anticipating anything like that, but there's always that possibility and I don't want to mislead you if I change my mind, but right now I'm going to vote yes."

If confirmed, Regan would be tasked with setting renewable volume obligations for 2021 under the Renewable Fuel Standard. Senator Grassley was asked if he believes Regan will make the RFS and biofuels a priority at EPA.

"The short answer is yes but remember that came in telephone conversations that I had with him prior to appearing before the committee," Grassley said. "I'm not on that committee, so I'm not sure what the transcript of that hearing says, but I have not heard anybody in the biofuels industry say anything differently."

Iowa Senator Joni Ernst asked Regan in February if he will try to grow the use of advanced biofuels like biomass-based diesel. Regan responded, "I will confer with my legal and policy team to understand all of the options before me regarding the RFS program, and in this specific case, how to set the RFS volume requirements beyond 2022."
If confirmed by the full Senate, Regan would be the first African American man to head the Environmental Protection Agency in its 50-year history.

HOW SCIENTISTS SCRAMBLED TO STOP DONALD TRUMP'S EPA FROM WIPING OUT CLIMATE DATA
https://www.theverge.com/22313763/scientists-climate-change-data-rescue-donald-trump
Their work isn't done yet
By Justine Calma @justcalma Mar 8, 2021, 9:00am EST

After hearing the news that then President-elect Donald Trump had appointed a notorious climate change denier to lead the Environmental Protection Agency transition team in 2016, Nicholas Shapiro, an environmental anthropologist, penned an urgent email to a dozen or so fellow scientists.

He was worried that the EPA was about to be torn apart from the inside under Trump's leadership. Others on the email thread were concerned that vital environmental data would be taken down from federal websites and destroyed. They'd just seen brutal attacks on science in Canada — irreplaceable scientific records were dumped in the trash under conservative Prime Minister Stephen Harper — and they feared that something similar could happen in the US. So Shapiro took a cue from his sister, an organizer for the Women's March, and tried to bring researchers together to mount an offensive.

"Does anyone know of any social scientists inside the EPA that might be able to document its dismantling?" Shapiro, now an assistant professor at UCLA, wrote at the top of his note. "It seems like it could be a humble contribution of our craft — just one stopgap idea that came to mind."

THE EMAIL EVENTUALLY SNOWBALLED INTO A MOVEMENT

The effort sparked by the email eventually snowballed into a movement to rescue key environmental datasets and information about climate change from government websites. Shapiro and his colleagues succeeded in connecting with scientists within the EPA to document the agency's transformation into an antagonist to environmental efforts in the US. And in some cases, the scientists were even able to mitigate the damage.

The scrappy cadre of scientists is now a largely volunteer-based group called the Environmental Data and Governance Initiative (EDGI). Their work is far from over, despite Trump leaving office, as they work to make sure another president can't drastically remake federal websites or destroy data in the future.

DATA RESCUE

"Trump wanted to tear the EPA into little bits," says Sara Wylie, an associate professor at Northeastern University who responded to Shapiro's email. "We started talking on that email thread about what we might be able to do."

The scientists worried that if records started disappearing, it would be harder to build on prior research or to use it to hold polluters accountable. On top of that, the public would lose information that could keep them safe.

In a matter of weeks, they launched "guerrilla archiving" events that made headlines for attracting hundreds of volunteers across the US and Canada who helped to identify and save environmental datasets. The EPA keeps records, for example, of the most dangerous substances at toxic Superfund sites that have been placed on a national priority list for cleanup. At each archiving event, volunteers identified important URLs and determined whether they needed to be manually backed up or if they could be harvested by the nonprofit Internet Archive, which stores a history of website changes over time.

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The effort dovetailed with a collaboration called the End of Term Web Archive, which saves content on government websites before every presidential transition and makes it publicly available through the Internet Archive. They also collaborated with researchers at the University of Pennsylvania, who still house data that needed to be manually archived.

Volunteers at EDGI's first data rescue event at the University of Toronto on December 17th, 2016. Photo: EDGI

"It was really a public outcry of saying, this is public data," Wylie says. "Federal government: This was paid for by taxpayer dollars. You don't really have the right to delete or remove it."

Beyond saving data, Wylie worked to make it more accessible to people. Over the past year, EDGI began aggregating data on the EPA's enforcement actions to make it easier for communities to see where companies violated environmental law. Last year, they created report cards for congressional districts and found an enormous jump — a median 98 percent increase — in violations to the US Clean Water Act across 55 districts.

WEBSITE WATCHDOGS

Soon after Trump stepped into office, EDGI noticed changes to government websites that made it harder to find information about climate change and pollution. Science agencies overhauled their websites, taking down pages and paring down information.

"A VERY HAZY, FAST-MOVING TIME"

"You're asking about a very hazy, fast-moving time," Gretchen Gehrke, one of the recipients of Shapiro's email and now a program leader for EDGI, tells The Verge with a laugh as she recalls the early days of the group's work to monitor government websites. A five-person team was put together to monitor tens of thousands of web pages. "We were all working all hours of the night. Everybody had full-time jobs, and we're working on this 40 hours a week on the side."

EDGI documented changes to the EPA's climate change webpage from 2016 to 2020. Image: EDGI

Before the group developed more sophisticated software, it started with a version that flagged all kinds of changes to websites. In those early days, Gehrke and her small team had the tedious job of looking through what was flagged to sort out which changes were actually meaningful. "It was like searching for a needle in the

haystack," Gehrke says. "Every difference showed up — which, for a lot of pages, was a date stamp change or removal of an excess space somewhere."

Typos and date stamps aside, Gehrke's team found changes and deletions that could have grave consequences. Official websites not only reflect the priorities of agencies like the Environmental Protection Agency; they also are an important resource for the public to learn about issues like air and water pollution that impact their lives.

EDGI volunteers gathered for a data rescue event in San Francisco in spring 2017. Photo: EDGIAfter working from different states for months, EDGI founders finally met in-person in Boston in September 2017. The team came together to craft the organization's mission, vision, and values. Photo: EDGI

Months into Trump's presidency, the term "climate change" was already disappearing from government websites, EDGI found. It also found that webpages for major environmental regulations aimed at protecting Americans' air and water were taken down months before Trump's administration even proposed rolling them back. Gehrke says that undermined the public's ability to understand the rules and participate in public comment periods before they could be repealed.

When the National Park Service took down plans from its website about how individual parks would respond to climate change, Gehrke's group sounded the alarm with a report on the deletion. Following that report, the NPS said that it had temporarily taken the information down to make it more accessible to people with disabilities — saying in a statement to EDGI at the time that it would bring the information back.

STORYTELLING FOR SCIENCE

As Trump attacked the EPA on his election campaign trail, Chris Sellers, a professor of environmental history at Stony Brook University, realized there was another crucial source of information that was at risk: the people who actually made science agencies tick. Months before he was elected, Trump called the EPA the "laughingstock of the world" and proposed funding cuts to the agency that were sure to lead to staff cuts.

Ultimately, more than 1,600 federal scientists left their positions during the first two years of Trump's presidency, The Washington Post reported in January 2020. "Much of the expertise of the federal bureaucracy has fled in horror," Michael Gerrard, founder and faculty director of the Sabin Center for Climate Change Law at Columbia University, told The Verge last year.

Hoping to archive the wealth of knowledge those people hold, Sellers and others at EDGI began confidentially interviewing staff at the EPA and OSHA. By June 2017, EDGI published a report compiling 60 confidential interviews. Morale among agency staff "plummeted," the report showed. Their work was "paralyzed."

ANOTHER CRUCIAL SOURCE OF INFORMATION WAS AT RISK: THE PEOPLE

A few months later, EDGI published an interview with Mustafa Ali, who led efforts to address environmental racism at the EPA, after his high-profile exit from the agency. When asked which programs and projects he was worried about at the agency, Ali responded: "I'm worried about all of them… There's not too many places in the agency that I think this new administration has not placed some really tough times ahead of."

Now, with a new president in power, more of the people who EDGI spoke to are willing to come forward with their stories. Since December, EDGI has slowly released previously anonymous individual interviews on a new website, apeoplesepa.org — now with names attached to the stories. The interviews aren't just an indictment of the Trump administration's attack on science; they also make up a library of lessons learned about how to serve people and the planet.

"In a time when you feel so many of these institutions are being trampled upon just willy nilly, to be able to do something towards reversing all that damage [has] been a really gratifying experience," Sellers says. "It really helped me survive the Trump years."

Some of the EDGI scientists' initial fears came to fruition. By the end of Trump's term, the use of the words "climate change" fell by almost 40 percent across websites for US federal environmental agencies. And access to as much as 20 percent of the EPA's website was removed, according to EDGI. Trump's administration rolled back more than 100 environmental regulations. And science agencies indeed suffered a brain drain. But EDGI celebrated some victories throughout Trump's administration, and their work isn't done now that someone else is in office.

THEIR WORK ISN'T DONE NOW THAT SOMEONE ELSE IS IN OFFICE

All in all, EDGI and its collaborators managed to archive over 200 terabytes of data and content from government websites between fall 2016 and spring 2017. There was so much hype over the effort that EDGI members think they may have deterred the Trump administration from actually trying to delete data. The datasets that they took care to save, for the most part, stayed up on federal websites.
They're still trying to keep that data safe for posterity. They don't want the data to fall victim to any future administration's whims. One approach they're looking into is the so-called "distributed web." It's still a developing concept, but the idea would be to back up the data across a peer-to-peer network so no one person can control it. "There are so many copies [of the data] that it can kind of never be magically deleted," Wylie says.
EDGI is also pushing for policies that provide high standards for web governance. Information on government websites should be archived and easily accessible, the group says in a report released in February. That means that even if a web page is taken down, its address should lead to an archived version of the page — not a "Page Not Found" notification. If knowledge is power, they want to make sure that people always have access to it.

House Biofuels Caucus Looks to Expand Biofuel Access
https://ngtnews.com/house-biofuels-caucus-looks-to-expand-biofuel-access-with-bipartisan-legislation
By Matthew Mercure
March 8, 2021

The co-chairs of the House Biofuels Caucus have introduced two new pieces of legislation to increase access to biofuels and to fully recognize their environmental benefits.

Rep. Cindy Axne (IA-03) and Rep. Rodney Davis (IL-13) led the introduction of the Renewable Fuels Infrastructure Investment and Market Expansion Act, which would expand access to higher blends of biofuels. Rep. Dusty Johnson (SD-AL) was the lead sponsor of the Adopt GREET Act, which will direct the Environmental Protection Agency (EPA) to update its greenhouse gas modeling for ethanol and biodiesel.

"One of the largest barriers to increased use of higher blends of biofuels is the lack of infrastructure and availability for consumers," says Axne. "My bipartisan legislation will provide consistent federal investment for biofuels infrastructure and will remove barriers for E15. I'm also proud to support Johnson's legislation to ensure the EPA is using the most up-to-date modeling to accurately reflect the greenhouse gas reduction provided by renewable fuels. These bipartisan bills will result in improved access to clean, affordable and homegrown fuel."

The Renewable Fuel Infrastructure Investment and Market Expansion Act would authorize $500 million over 5 years for infrastructure grants for fuel retailers and direct the EPA Administrator to finalize a proposed rule to repeal E15 labeling requirements warning drivers about E15's potential impact on cars, which may confuse and

deter drivers from using E15, a blend of gasoline with 15% ethanol. The bill would also direct the EPA Administrator to finalize provisions from the same proposed rule to allow certain existing underground storage tanks (UST) to store higher blends of ethanol.

The Adopt GREET Act would require the EPA to update its greenhouse gas modeling for ethanol and biodiesel by requiring the EPA to adopt the Argonne National Lab's Greenhouse Gases, Regulated Emissions and Energy Use in Transportation (GREET) Model for both fuels. EPA would then be required to update its modeling every five years or report to Congress to affirm its modeling is current or otherwise explain why no updates were made.

Both pieces of legislation are supported by the National Corn Growers Association, the Renewable Fuels Association, the American Coalition for Ethanol, Growth Energy and POET.

Photo: Rep. Rodney Davis

'Forever chemicals' contaminate sites across North Dakota, including in Fargo
https://www.inforum.com/news/science-and-nature/6895666-Forever-chemicals-contaminate-sites-across-North-Dakota-including-in-Fargo
Scientists say the compounds, which can be found across the U.S., could be harmful in even tiny amounts.
Written By: David Olson | 6:00 am, Mar. 8, 2021

FARGO — A group of human-made compounds sometimes referred to as "forever chemicals" can be found in the environment in many places around the United States, including the soil and groundwater under several military sites in North Dakota.

The contamination includes soil and groundwater under the Air National Guard base near Fargo's Hector International Airport as well as U.S. Air Force bases at Minot and Grand Forks, according to the North Dakota Department of Environmental Quality.

The agency said those military installations have "elevated" levels of per- and polyfluoroalkyl substances, known collectively as PFAS, with the contamination primarily due to chemical firefighting foams used to combat aircraft fuel fires.

PFAS are a large family of chemicals used in a variety of products including firefighting foam, grease-resistant food wrapping, clothing, medicine, nonstick coatings and carpeting.

Called "forever" chemicals because they don't easily break down in the environment or in living tissue, PFAS are known to have adverse health effects in humans, including low birth weights and cancer, though at what levels they are dangerous remains under debate by scientists.

Besides the locations already mentioned, communities in the region known to have PFAS contamination include the city of Bemidji, Minn., and the Minnesota National Guard's Camp Ripley near Little Falls, in central Minnesota.

In the case of Bemidji, the city closed down a number of drinking water wells located near the city's municipal airport several years ago after they were found to be contaminated with PFAS.

Bemidji has since embarked on a multi-million dollar project to build a treatment plant that can remove forever chemicals from the city's water supply.

Because of contamination at sites across Minnesota, officials in that state recently unveiled a blueprint for evaluating and addressing issues involving PFAS.

The Minnesota plan envisions stronger regulations that would define PFAS as hazardous substances under Minnesota's Superfund law, which regulators have said would make it easier to hold companies responsible for cleaning up pollution involving PFAS compounds.

Under the plan, Minnesota is also looking to research how PFAS reach the environment, including the roles that landfills, compost sites and wastewater treatment plants play.

On a national level, the Environmental Protection Agency recently released a PFAS action plan some environmental watchdogs have criticized as inadequate, maintaining the EPA plan does not address ongoing sources of PFAS pollution, will not clean up legacy pollution and will not require reporting of PFAS releases.

The EPA states on its website that the agency is committed to supporting states, tribes and local communities in addressing challenges with PFAS and as part of that effort the agency is taking action to identify solutions to address PFAS in the environment.

The agency also notes that EPA career scientists reviewed a toxicity assessment for PFAS released by the EPA in January and made an initial determination that "the conclusions in assessment were compromised by political interference as well as infringement of authorship and the scientific independence of the authors' conclusions."

The agency said political interference constituted a violation of the agency's scientific integrity policy and the documents have since been removed from the EPA website pending completion of a review.

Among independent groups that keep tabs on PFAS pollution is the Environmental Working Group, which maps locations where PFAS pollution has been documented.

According to the EWG website, PFAS compounds are a class of non-stick, waterproof, stain-resistant chemicals used in consumer products and industry. Some of the best known are PFOS, which were formerly used to make DuPont's Teflon and PFOA, which was used in Scotchgard produced by 3M.

EWG maintains that even low-level exposure to certain PFAS has been linked to cancer, thyroid disease, weakened childhood immunity and other health problems.

According to EWG, more than 2,300 sites in 49 states have PFAS contamination, including several locations in North Dakota, many of which have connections to the military.

The Department of Defense has looked into the PFAS contamination at the Air Force bases in Minot and Grand Forks as well as the Air National Guard base in Fargo and the agency is continuing to evaluate those sites, according to David Bruschwein, director of the division of municipal facilities for the North Dakota Department of Environmental Quality.

ND drinking water testing shows PFAS issues rare

Bruschwein said the state of North Dakota has done several of its own evaluations of PFAS contamination, including a recent study of the drinking water of about 50 communities across the state.

He said the findings of that study have yet to be released, but he said in general the study found PFAS in only a few of the drinking water systems it checked, describing the levels found as very low.

Bruschwein said systems where PFAS were found in drinking water include The Oaks Golf Club in Oaks and the municipal drinking water system in Michigan, where the chemicals were detected but below quantifiable levels, and the Willowbank Hutterite Colony near Edgeley, where Bruschwein said PFAS levels were negligible.

He said as part of that study PFAS were detected in Fargo's drinking water, but concentrations were so low they could not be quantified.

PFAS are not currently regulated by the federal Safe Drinking Water Act, so many municipalities around the country do not routinely test for their presence in drinking water, Bruschwein said.

In 2018, North Dakota officials checked for the presence of PFAS in a number of communities.

Bruschwein said PFAS were found where officials expected to find them — in places like landfills and in wastewater — and he said the concentrations detected were small.

As a part of that study, drinking water systems were checked in seven communities — Beulah, Bismarck, Fargo, Grand Forks, Gwinner, Jamestown and Minot.

And while PFAS were found in all of the systems except for Gwinner, levels were very low and did not exceed the EPA's health advisory level established for PFAS of 70 parts per trillion, according to the study's findings.

"Detections in drinking water treatment plants were low — low enough that they may be explained by something as simple as a gasket or glue containing Teflon, or another PFAS chemical commonly used in piping or plant construction," the 2018 report stated.

Past testing has detected PFAS in the drinking water of North Dakota National Guard training camps near Garrison, Valley City and Grafton.

And while the National Guard is continuing to look at those sites, Bruschwein said it is his understanding the concentrations of chemicals found so far have not been concerning.

When it comes to sites like Minot, Grand Forks and Fargo, the Department of Defense is still working on getting a clear picture of what is there, Bruschwein said.

The question of what ultimately should be done with PFAS-contaminated sites is one officials across the country are still trying to answer, Bruschwein added.

The North Dakota Air National Guard base where PFAS were found in soil and groundwater is located in north Fargo near Hector International Airport.

The city of Fargo takes its drinking water from the Red River from intakes on the south side of town, upstream from the air base, and Bruschwein said that to date no concerning PFAS contamination has been found in Fargo's drinking water.

According to the North Dakota Air National Guard, after the soil and groundwater contamination was found in certain spots around the base in Fargo a follow-up investigation was ordered.

The additional investigation will focus on determining the nature and extent of contamination and potential off-base pollution migration, but just when the follow-up happens will be determined by Department of Defense officials on a priority basis, the North Dakota Air National Guard said.

The Department of Defense has said the heavy clay soils in Fargo serve to slow the movement of PFAS and according to the Air National Guard the Fargo base is considered a low priority for follow-up investigation because of the soil involved and the fact no drinking-water wells are located near the installation.

The Air National Ground noted test locations on the base are nearly 1.5 miles or further from the Red River.

'Highly toxic in small amounts'

While the EPA has issued a health advisory level for PFAS in drinking water, putting the threshold for potential health risks at 70 parts per trillion, a number of state governments and independent scientists would say that even at that tiny concentration PFAS can pose a danger.

That's according to Alissa Cordner, an environmental sociologist and associate professor of sociology at Whitman College in Walla Walla, Wash., and co-director of The PFAS Project Lab, a group of more than a dozen college and university researchers who since 2015 have been tracking PFAS contamination in things like drinking water.

"Scientific evidence overwhelmingly suggests that these chemicals are highly toxic in relatively small doses," Cordner said, adding that when her research group began its efforts, PFAS contamination was a small area of concern for environmental health scientists and regulators.

"Now," she said, "it is clearly emerging as one of the major threats to public health in the U.S., especially through drinking water contamination."

Cordner said one reason the chemicals are so concerning is their durability — they do not break down easily in the environment or the human body and therefore tend to accumulate in tissue.

Because of that durability, firefighting foam released into the environment many years ago at airfields and military installations may still pose a danger, according to Cordner.

"Even decades-old contamination can be a real concern for human health," Cordner said, adding that issues surrounding PFAS are unlikely to fade anytime soon.

"We see no end in sight for the projects that we're going to be working on," she said.

Report: Popular flea & tick collar tied to 1,700 pet deaths, EPA received more than 75,000 complaints
https://www.informnny.com/top-stories/report-popular-flea-tick-collar-tied-to-1700-pet-deaths-epa-received-more-than-75000-complaints/
by: Michael Geheren, Rudabeh Shahbazi
Posted: Mar 8, 2021 / 07:13 AM EST / Updated: Mar 8, 2021 / 07:13 AM EST

CHICAGO (NewsNation Now) — An investigation found that more than 75,000 complaints about the Seresto brand of flea and tick collars have been sent to the Environmental Protection Agency. Investigators have linked the deaths of nearly 1,700 dogs and cats, according to a report co-published by Midwest Center for Investigative Reporting and USA TODAY.

The collars use two types of pesticides to kill fleas and ticks. The EPA said the collars are safe but that some pets may be sensitive to the pesticide combination.

"I know one of the biggest concerns that people have: 'We hate ticks. We hate fleas.' And so do I, but when I go out in the woods, I don't put a pesticide collar around my neck so that I don't get fleas and ticks, because I know it's probably a bad idea to have a pesticide on me," said Dr. Barbara Royal.

The Chicago-based veterinarian joined NewsNation Prime on Saturday to discuss the reporting.

"It's disturbing because I know people are always trying to find something a little bit less toxic and effective at the same time, and it can be very difficult for them to find a product that's going to work," she said.

The popular collars, sold at Amazon, Chewy.com, big-box pet stores and often in veterinary offices, release a small amount of the pesticides over eight months.

The EPA regulates pesticides. NewsNation reached out to the agency about the reporting but has yet to receive a response.

"No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk," an EPA spokesperson told USA TODAY and the Midwest Center for Investigative Reporting. "The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

Dr. Royal, the founder and owner of the Royal Treatment Veterinary Center in Chicago, said these collars are a bad solution to a difficult problem.

"These flea collars, they seem like they might be less toxic, but people leave them on sometimes too long, or they're leaving them on all the time, which may be too much. The extended-release type flea collars, those actually increase the risk of having a toxic event because they're putting out something that's going to and last longer and maybe be a little bit more variable in how much pesticide is put onto your dog," she said.

So, what should pet parents do if they are hesitant about using flea and tick collars? Dr. Royal said one option is essential oils because ticks don't link some of the scents, but she said you have to be extra careful with cats.

"Being open to different types of things that are out there is not a bad idea, and then also watching your pet and being careful. So, it may be a little more labor-intensive, but it's sort of fun to spend after a good walk in the woods, spend some time looking through your pet, making sure your checking for the ticks."

NewsNation also reached out to Elanco, the pharmaceutical company which owns Seresto, but has yet to hear back.

The company did post a statement on their website following the report, saying "there is no established link between death and exposure to the active ingredients contained in Seresto."

Elanco takes the safety of our products very seriously, and thoroughly investigates potential concerns related to their use. It is critically important to understand that a report is not an indication of cause. Since its initial approval in 2012, more than 25 million Seresto collars have protected dogs and cats in the U.S. from fleas, ticks and the resulting tick-borne illnesses that can impact their quality of life.

– There is no established link between death and exposure to the active ingredients contained in Seresto.

– The reporting rate for all adverse events related to Seresto is less than 0.3% of all collars sold since 2012 – defined by the WHO (World Health Organization) as "uncommon".

– The significant majority of these incidents relate to non-serious effects such as application site disorders – reddening of the skin or hair loss below the collar.

– As a globally marketed product, more than 80 regulatory authorities around the world, including the US EPA, rigorously reviewed the safety data collected over the course of Seresto's development prior to registration and/or approval, as appropriate.

– Further, the safety and efficacy of Seresto are continuously monitored and scrutinized by global regulatory bodies as well as via internal processes.

ELANCO STATEMENT

Scientists formed EDGI to stop Trump's EPA from wiping out climate data
https://pressreality.com/2021/03/08/scientists-formed-edgi-to-stop-trumps-epa-from-wiping-out-climate-data/
March 8, 2021 9:38 am EST

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Data Rescue

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Volunteers at EDGI's first data rescue event at the University of Toronto on December 17th, 2016.

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Website Watchdogs
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"A very hazy, fast-moving time"

"You're asking about a very hazy, fast-moving time," Gretchen Gehrke, one of the recipients of Shapiro's email and now a program leader for EDGI, tells The Verge with a laugh as she recalls the early days of the group's work to monitor government websites. A five-person team was put together to monitor tens of thousands of web pages. "We were all working all hours of the night. Everybody had full-time jobs, and we're working on this 40 hours a week on the side."

EDGI documented changes to the EPA's climate change webpage from 2016 to 2020.
Image: EDGI

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Photo: EDGI

After working from different states for months, EDGI founders finally met in-person in Boston in September 2017. The team came together to craft the organization's mission, vision, and values.
Photo: EDGI

Months into Trump's presidency, the term "climate change" was already disappearing from government websites, EDGI found. It also found that webpages for major environmental regulations aimed at protecting Americans' air and water were taken down months before Trump's administration even proposed rolling them back. Gehrke says that undermined the public's ability to understand the rules and participate in public comment periods before they could be repealed.

When the National Park Service took down plans from its website about how individual parks would respond to climate change, Gehrke's group sounded the alarm with a report on the deletion. Following that report, the NPS said that it had temporarily taken the information down to make it more accessible to people with disabilities — saying in a statement to EDGI at the time that it would bring the information back.

Storytelling for Science

As Trump attacked the EPA on his election campaign trail, Chris Sellers, a professor of environmental history at Stony Brook University, realized there was another crucial source of information that was at risk: the people who actually made science agencies tick. Months before he was elected, Trump called the EPA the "laughingstock of the world" and proposed funding cuts to the agency that were sure to lead to staff cuts.

Ultimately, more than 1,600 federal scientists left their positions during the first two years of Trump's presidency, The Washington Post reported in January 2020. "Much of the expertise of the federal bureaucracy has fled in horror," Michael Gerrard, founder and faculty director of the Sabin Center for Climate Change Law at Columbia University, told The Verge last year.

Hoping to archive the wealth of knowledge those people hold, Sellers and others at EDGI began confidentially interviewing staff at the EPA and OSHA. By June 2017, EDGI published a report compiling 60 confidential interviews. Morale among agency staff "plummeted," the report showed. Their work was "paralyzed."

Another crucial source of information was at risk: the people

A few months later, EDGI published an interview with Mustafa Ali, who led efforts to address environmental racism at the EPA, after his high-profile exit from the agency. When asked which programs and projects he was worried about at the agency, Ali responded: "I'm worried about all of them… There's not too many places in the agency that I think this new administration has not placed some really tough times ahead of."

Now, with a new president in power, more of the people who EDGI spoke to are willing to come forward with their stories. Since December, EDGI has slowly released previously anonymous individual interviews on a new website, apeoplesepa.org — now with names attached to the stories. The interviews aren't just an indictment of the Trump administration's attack on science; they also make up a library of lessons learned about how to serve people and the planet.

"In a time when you feel so many of these institutions are being trampled upon just willy nilly, to be able to do something towards reversing all that damage [has] been a really gratifying experience," Sellers says. "It really helped me survive the Trump years."

Some of the EDGI scientists' initial fears came to fruition. By the end of Trump's term, the use of the words "climate change" fell by almost 40 percent across websites for US federal environmental agencies. And access to as much as 20 percent of the EPA's website was removed, according to EDGI. Trump's administration rolled

back more than 100 environmental regulations. And science agencies indeed suffered a brain drain. But EDGI celebrated some victories throughout Trump's administration, and their work isn't done now that someone else is in office.

Their work isn't done now that someone else is in office

All in all, EDGI and its collaborators managed to archive over 200 terabytes of data and content from government websites between fall 2016 and spring 2017. There was so much hype over the effort that EDGI members think they may have deterred the Trump administration from actually trying to delete data. The datasets that they took care to save, for the most part, stayed up on federal websites.

They're still trying to keep that data safe for posterity. They don't want the data to fall victim to any future administration's whims. One approach they're looking into is the so-called "distributed web." It's still a developing concept, but the idea would be to back up the data across a peer-to-peer network so no one person can control it. "There are so many copies [of the data] that it can kind of never be magically deleted," Wylie says.

EDGI is also pushing for policies that provide high standards for web governance. Information on government websites should be archived and easily accessible, the group says in a report released in February. That means that even if a web page is taken down, its address should lead to an archived version of the page — not a "Page Not Found" notification. If knowledge is power, they want to make sure that people always have access to it.

Algorithmic approaches for assessing pollution reduction policies can reveal shifts
https://www.miragenews.com/algorithmic-approaches-for-assessing-pollution-524819/

Applying machine learning to a U.S. Environmental Protection Agency initiative reveals how key design elements determine what communities bear the burden of pollution. The approach could help ensure fairness and accountability in machine learning used by government regulators.

By Rob Jordan

Stanford Woods Institute for the Environment
The perils of machine learning – using computers to identify and analyze data patterns, such as in facial recognition software – have made headlines lately. Yet the technology also holds promise to help enforce federal regulations, including those related to the environment, in a fair, transparent way, according to a new study by Stanford researchers.
The analysis, published this week in the proceedings of the Association of Computing Machinery Conference on Fairness, Accountability and Transparency, evaluates machine learning techniques designed to support a U.S. Environmental Protection Agency (EPA) initiative to reduce severe violations of the Clean Water Act. It reveals how two key elements of so-called algorithmic design influence which communities are targeted for compliance efforts and, consequently, who bears the burden of pollution violations. Such analyses are particularly timely given recent executive actions calling for renewed focus on environmental justice.

"Machine learning is being used to help manage an overwhelming number of things that federal agencies are tasked to do – as a way to help increase efficiency," said study co-principal investigator Daniel Ho, the William Benjamin Scott and Luna M. Scott Professor of Law at Stanford Law School. "Yet what we also show is that simply designing a machine learning-based system can have an additional benefit."

Pervasive noncompliance

The Clean Water Act aims to limit pollution from entities that discharge directly into waterways, but in any given year, nearly 30 percent of such facilities self-report persistent or severe violations of their permits. In an effort to halve this type of noncompliance by 2022, EPA has been exploring the use of machine learning to target compliance resources.

To test this approach, EPA reached out to the academic community. Among its chosen partners: Stanford's Regulation, Evaluation and Governance Lab (RegLab), an interdisciplinary team of legal experts, data scientists, social scientists and engineers that Ho heads. The group has done ongoing work with federal and state agencies to aid environmental compliance.
In the new study, RegLab researchers examined how permits with similar functions, such as wastewater treatment plants, were classified by each state in ways that would affect their inclusion in the EPA national compliance initiative.
Using machine learning models, they also sifted through hundreds of millions of observations – an impossible task with conventional approaches – from EPA databases on historical discharge volumes, compliance history and permit-level variables to predict the likelihood of future severe violations and the amount of pollution each facility would likely generate. They then evaluated demographic data, such as household income and minority population, for the areas where each model indicated the riskiest facilities were located.

Devil in the details
The team's algorithmic process helped surface two key ways that the design of the EPA compliance initiative could influence who receives resources. These differences centered on which types of permits were included or excluded, as well as how the goal itself was articulated.

In the process of figuring out how to achieve the compliance goal, the researchers first had to translate the overall objective into a series of concrete instructions – an algorithm – needed to fulfill it. As they were assessing which facilities to run predictions on, they noticed an important embedded decision. While the EPA initiative expands covered permits by at least sevenfold relative to prior efforts, it limits its scope to "individual permits," which cover a specific discharging entity, such as a single wastewater treatment plant. Left out are "general permits," intended to cover multiple dischargers engaged in similar activities and with similar types of effluent. A related complication: Most permitting and monitoring authority is vested in state environmental agencies. As a result, functionally similar facilities may be included or excluded from the federal initiative based on how states implement their pollution permitting process.

"The impact of this environmental federalism makes partnership with states critical to achieving these larger goals in an equitable way," said co-author Reid Whitaker, a RegLab affiliate and 2020 graduate of Stanford Law School now pursuing a PhD in the Jurisprudence and Social Policy Program at the University of California, Berkeley.

Second, the current EPA initiative focuses on reducing rates of noncompliance. While there are good reasons for this policy goal, the researchers' algorithmic design process made clear that favoring this over pollution discharges that exceed the permitted limit would have a powerful unintended effect. Namely, it would shift enforcement resources away from the most severe violators, which are more likely to be in densely populated minority communities, and toward smaller facilities in more rural, predominantly white communities, according to the researchers.

"Breaking down the big idea of the compliance initiative into smaller chunks that a computer could understand forced a conversation about making implicit decisions explicit," said study lead author Elinor Benami, a faculty affiliate at the RegLab and assistant professor of agricultural and applied economics at Virginia Tech. "Careful algorithmic design can help regulators transparently identify how objectives translate to implementation while using these techniques to address persistent capacity constraints."

Ho is also a professor of political science in Stanford's School of Humanities and Sciences, senior fellow at the Stanford Institute for Economic Policy Research (SIEPR), associate director of the Stanford Institute for Human-Centered Artificial Intelligence and faculty fellow at the Center for Advanced Study in the Behavioral Sciences. Co-authors of the study include Hongjin Lin, a research fellow at Stanford Law School; Brandon Anderson, head of data science in Stanford's RegLab; and Vincent La, a data scientist in Stanford's RegLab. The research was supported by the Stanford Woods Institute for the Environment and Schmidt Futures.

Far from White House, Caribbean refinery to test Biden's promises on poverty and pollution
https://financialpost.com/pmn/business-pmn/far-from-white-house-caribbean-refinery-to-test-bidens-promises-on-poverty-and-pollution-2
Reuters
Laura Sanicola
Mar 08, 2021

Earlier this month, Loren Hughes, a longtime resident of the U.S. Virgin Islands, noticed specks of an oily substance covering his home, as well as those owned by his neighbors.

For Hughes, 46, it brought back memories of the last time St. Croix's long-idled refinery was operating, roughly a decade earlier. The refinery restarted last month, bringing back hundreds of jobs – but for nearby residents, they say it also brought difficulty breathing, headaches and watery eyes.

"Sometimes it's like sulfur or rotten eggs. The other smells are unexplainable," Hughes said.

The U.S. Environmental Protection Agency wants the refinery's owners, Limetree Bay Ventures, to increase its monitoring of air quality due to emissions affecting the nearby neighborhoods, but the owners have so far balked.

St. Croix is a long way from the U.S. mainland. But the battle over the refinery's pollution on this Caribbean island and tourist resort is one of the first tests of how the Biden administration will prioritize environmental justice.

As the United States has become the world's largest fossil fuel producer, opponents have grown more vocal about how many projects, particularly in the petrochemical and refining industries, are situated near low-income areas with large minority populations.

The Biden administration has vowed to make sure new energy projects do not unfairly harm those communities, such as the ones living near the refinery. About 90 million Americans live within 30 miles (50 km) of at least one refinery, according to environmental group Earthjustice.

"This situation offers the first opportunity for the Biden-Harris administration to stand up for an environmental justice community, and take a strong public health and climate chance stance concerning fossil fuels," said John Walke, senior attorney and director of clean air programs with the Natural Resources Defense Council.

After a decade idle, the Limetree Bay refinery restarted this year with plans to process up to 200,000 barrels of oil a day into gasoline and other fuels. Limetree Bay Ventures also received strict conditions from the U.S. EPA, which told the company that it had to add enhanced air quality monitoring.

Limetree Bay, backed by private equity firms EIG and Arclight Capital, is appealing that directive, saying the monitors are not necessary and their operating cost is not Limetree's responsibility.

A Reuters examination of publicly available EPA data shows the refinery is also currently not monitoring sulfur dioxide levels near the plant, as required. Limetree declined several requests for comment on this issue.

A spokesperson for EIG representing the refinery told Reuters it is committed to excellent environmental performance and considers it fundamental to the company's success. Arclight did not respond to requests for comment.

St. Croix residents are torn between dealing with the effects of pollution and the benefits of high-paying jobs that offset the loss of tourism dollars amid the coronavirus pandemic.

"When you are talking about people who are poor, they're not going to criticize the refinery that gives them jobs," said Virginia Clairmont, a community activist who meets with company representatives quarterly.

A 2020 study by researchers at University of Texas Medical Branch concluded that living within 30 miles of an oil refinery was associated with increased risk of multiple cancer types. (Study: https://bit.ly/3edzAIP)

A DECADE-LONG SAGA

The permit Limetree Bay Ventures is fighting was issued during the Trump administration, but it is now up to the Biden administration to enforce it – as it considers even stricter controls.

The refinery, formerly known as Hovensa, produced more than 500,000 barrels of product per day before joint owners Hess and Venezuela's state-run oil company shut it down in 2012 following violations of the U.S. Clean Air Act. The company cited the global economic slowdown and competition with new refineries in emerging markets.

As it planned to reopen, Limetree in 2018 filed for a permit allowing the company to expand and construct additional units without being deemed a new source of pollution, which would require stricter pollution controls. Trump's EPA granted the permit, as long as emissions were kept under "plantwide applicability limit."

In a 2019 report https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:bb7cc527-da51-4ee3-af55-f2cf15429773 on Limetree, the EPA said it is difficult to conclude that Limetree Bay's emissions would not hurt nearby residents' health and quality of life. It later required Limetree Bay Ventures to add five air monitors in exchange for the permit.

Limetree Bay has appealed that ruling with the EPA's Environmental Appeals Board (EAB), a little-known independent U.S. tribunal comprised of four judges that rule on such disputes.

In its appeal, Limetree said the EPA requirements are linked to environmental justice concerns that are unrelated to operating within the pollution limits of the permit.

It is unclear when the EPA's appeals board will rule on the permit dispute. The Biden-run EPA could withdraw the permit, and it is also reviewing whether the refinery is a new source of pollution that requires stricter air pollution controls.

The White House declined to comment.

If the EAB sides against Limetree, the company has the right to appeal to a federal court. The EPA cannot appeal EAB rulings.

'QUALITY JOBS'

The restart has created 400 full-time jobs, 80% of which must go to island residents, who mainly rely on tourism for employment.

"In these difficult economic times, I am very pleased that the refinery is creating hundreds of well-paying, quality jobs for USVI workers," St. Croix Governor Albert Bryan Jr. said in January.

Officials estimate the refinery could bring in $7 million in tax revenue annually to the cash-strapped island of 105,000 people. The U.S. territory has a $4 billion unfunded pension liability that is roughly equal to the island's entire gross domestic product, according to Austin Nibbs, administrator of USVI Government Employees' Retirement System (GERS).

The refinery should pay the costs of air monitoring, said John Willard, 69, a retired St. Croix school principal with a government pension. "It's their duty and responsibility to make sure the communities are functioning in remain as healthy as possible and as clean as possible for air," he said.

Environmental groups, including the St. Croix Environmental Association, are challenging the permit, saying the permit issued by the Trump-era EPA gives Limetree too much leeway to pollute.

An EIG spokesman said the 2020 permit will "give Limetree the flexibility to explore more projects at the refinery that could lead to more local jobs and investment."

Many residents agree the jobs are needed, but the memory of previous owners remains fresh. Jelani Ritter, who supports the refinery restart, recalls how previous owners filed for bankruptcy, avoiding the U.S. Department of Justice's order to pay $700 million for pollution controls in 2011 after a series of incidents sickened residents. "They made a lot of money off the people of the Virgin Islands and when it got difficult, they shut the plant down," Ritter said. "We felt used."

(Reporting by Laura Sanicola in New York; Additional reporting by Gary McWilliams in Houston; Editing by David Gaffen and Lisa Shumaker)

Authorities Shut Down Illegal Rave on Contaminated Superfund Site in Ridgewood
https://ridgewoodpost.com/authorities-shut-down-illegal-rave-on-contaminated-superfund-site-in-ridgewood
March 8, 2021 By Christina Santucci

Authorities busted an illegal rave in a Ridgewood warehouse on a contaminated Superfund site early Saturday, the city Sheriff's office said.

Deputies found 142 maskless people dancing and partying inside the 11-33 Irving Ave. location at around 1:40 a.m.

Photos released by the authorities showed a DJ setup and red streamers and balloons hanging from the ceiling above what appears to be a dance floor.

Deputies had staked out the location after they got a tip about the rave and saw several people go into the warehouse, which had its security gate rolled down halfway. Loud music could also be heard from outside.

Three people were issued tickets for defying pandemic executive orders and health code violations, and one was hit with an additional charge of working as an unlicensed security guard, authorities said.

The club also had no liquor license, and the building did not have a valid certificate of occupancy, the Sheriff said.

The building is part of a .75-acre site included in the National Priorities list of the federal Superfund program, which identifies toxic land around the country in need of a clean up.

The location had previously been home to Wolff-Alport Chemical Company, and the company disposed of thorium waste — a radioactive material — in the sewer and on its property until 1947, the Environmental Protection Agency (EPA) said.

The EPA wrote that if the site wasn't cleaned up it "may present an imminent and substantial endangerment to public health, welfare, or the environment," in 2017.

As of last summer, the federal agency was in the process of collecting soil samples to determine how much of the ground would need to be excavated.

Hundreds of toxic sites at risk for flooding, which could endanger surrounding communities
https://mynbc15.com/news/spotlight-on-america/hundreds-of-toxic-sites-at-risk-for-flooding-which-could-endanger-surrounding-communities
by JOCE STERMAN, ALEX BRAUER and ANDREA NEJMAN
Monday, March 8th 2021

NAVASSA, N.C. (SBG) — Millions of Americans live near Superfund sites, areas the federal government considers contaminated as a result of hazardous waste that was dumped, mismanaged or otherwise left out in the open. Many of those sites are still awaiting cleanup. And with climate change triggering sea-level rise, experts are ringing the alarm bell about the threat of flooding at Superfund sites, which could put the communities that surround them at risk.

The longtime mayor of Navassa, North Carolina, a small town outside Wilmington, long suspected the wood treatment plant that sat in his community had left behind a toxic legacy. It closed its operation in the 1970s. But when crews began construction of a bridge over Sturgeon Creek in the middle of town, that's when Mayor Eulis Willis says they made a startling discovery.

"This gooey stuff was oozing up out of the ground and they realized, 'Hey, that's creosote,'" Navassa Mayor Eulis Willis told Spotlight on America.
Mayor Eulis Willis walks along the marsh that serves as a buffer for a Superfund site in Navassa, North Carolina (Photo: Alex Brauer)

Creosote is a probable human carcinogen. It was used at the Kerr-McGee Chemical Corporation to treat wood in Navassa. Today, the area where the chemical was used is deemed a Superfund site by the Environmental Protection Agency, a designation reserved for the most contaminated areas in the country.

In Navassa, creosote seeped into the groundwater and soil, tainting acres of land now covered with trees and bordered by marshland. According to an Environmental Protection Agency (EPA) website that details information and action related to that specific site, "Site contamination does not currently threaten people living and working near the site. A water line connects residences and businesses to the public water system. The site is physically stable with vegetation in place to prevent erosion."

Mayor Willis considers the marsh surrounding the Superfund site a saving grace. "The marsh is one of God's ways of protecting us," he said. "It's kind of acting like a sponge. It's eating up a lot of that stuff." He worries, though, that the natural protection may not last forever. It's a concern that goes well beyond Navassa.

Experts all over the country are concerned about erosion at hundreds of Superfund sites. They say climate change and sea-level rise are raising the potential for more flooding, which could compromise the stability of the sites, and send hazardous chemicals spreading into neighborhoods.

It's happened before. In 2011, floodwaters from Hurricane Irene led to the release of the cancer-causing chemical Benzene from a Superfund site in New Jersey. Eight years later, when Hurricane Harvey devastated Texas, the San Jacinto Superfund site near Houston was breached by floodwaters, exposing nearby communities to toxic chemicals with the potential to cause cancer.

A photo of the American Cyanamid Superfund site in New Jersey shows flooding that followed Hurricane Irene in 2011 (Photo: Environmental Protection Agency)

Jacob Carter, research scientist with the Center for Science and Democracy at the Union of Concerned Scientists, has been leading the charge for action. He's been looking into the threat of flooding at Superfunds as well as other hazardous sites that have not been included on the government's National Priorities List or what are called Superfund Alternative Agreement (SAA) sites.

Last year, he authored a study that found the problem is widespread, detailing the following findings:

- In the next 20 years, 876 Superfund and other hazardous sites could be at risk of flooding - only taking into account a low sea-level rise projection
- Florida, New Jersey and New York are hot spots of particular concern
- Millions of people live within 5 miles of the Superfund sites that are at risk
- Populations near the sites are mainly communities of color and low-income communities

Jacob Carter, research scientist with the Center for Science & Democracy at the Union of Concerned Scientists, began researching the impacts of flooding on Superfund and other hazardous sites during the Obama administration (Photo: Alex Brauer)

"Communities are at risk, people's health is at risk," Jacob Carter, research scientist with the Union of Concerned Scientists said. "We're talking about humans who could literally lose their lives if they come into contact with some of these chemicals."
Center for Science and Democracy at the Union of Concerned Scientists report by Erin on Scribd

Carter says the EPA needs to take action to bolster Superfund sites now. His push was echoed in a 2019 report from the Government Accountability Office, a federal agency that acts as a watchdog. That report found that 60% of Superfund sites overseen by the EPA are in areas that may be impacted by natural hazards made worse by climate change. That includes everything from wildfires to storm surge and flooding. Spotlight on America analyzed the data from the report, finding that sites in danger of climate change impacts aren't just on America's coastlines. They span hundreds of sites in 47 states.

Data from the Government Accountability Office shows Superfund sites at risk for flooding in the future (Photo: SBG)

The Government Accountability Office (GAO) made several recommendations to deal with the issue back in 2019, including providing direction on how to integrate climate change effects into decisions at Superfund sites, and standardizing information about the boundaries of Superfund sites. All of those recommendations remain open to this day. The EPA responded to the recommendations in 2019, saying in part:

"The EPA recognizes the importance of ensuring Superfund site cleanups are resilient in the face of existing risks and extreme weather events and the Agency has taken measures to include vulnerability analyses and adaptation planning into Superfund activities. The EPA strongly believes the Superfund program's existing

processes and resources adequately ensure that risks and any effects of severe weather events are woven into risk assessments."

In response to recent questions from Spotlight on America, the EPA supplied a nearly identical statement, although the agency specifically used the phrase climate change in its response, adding that "Consideration of climate change implications in cleanup projects is most effective through use of a site-specific strategy, due to the varying geophysical characteristics of contaminated sites, the nature of remedial actions at those sites, and local or regional climate and weather regimes."

Emily Atkin, a climate change author who runs the Heated newsletter, told Spotlight on America the government has not always taken proactive steps to protect citizens. She says the agency needs to prioritize Superfund sites, not just for cleanup, but to be fortified against floods and extreme weather. The goal, she says, is protecting the vulnerable communities impacted by Superfund sites, which Jacob Carter found in his research are often low income communities or communities of color.

"At a certain point when you just pile things onto these communities, it becomes so much harder for them to recover," climate change author Atkin explained. "People think about climate change as being a story about the environment, being a story about polar bears, as being a story about the ice caps. It's a story about humans. It's a story about whether we choose to take care of humans or not."

Climate change author Emily Atkin says the threats facing Superfund sites have been handled reactively, not proactively by the EPA (Photo: Alex Brauer)

Atkin and Carter are hopeful that a new White House will bring fresh eyes to the issue. During the Obama administration, the EPA had been examining how to protect Superfund sites from the impacts of climate change. But the Trump Administration rescinded the Executive Order that greenlit that work. Now, with President Biden in office, Carter says the EPA has returned to its research on the issue.

An EPA representative told Spotlight on America, "The Biden-Harris Administration is committed to taking bold action on addressing climate change. The Agency's new leadership team is aware of the issues involved in climate change and Superfund sites, and will be working with EPA staff to determine next steps to build on the Superfund program's existing climate change adaptation and mitigation approaches--guided by science, the law, and the need for transparency to protect public health and the environment and to advance environmental justice."

A sign tacked onto a trailer in Navassa, North Carolina provides basic details about the Superfund site that sits just behind it (Photo: Joce Sterman)

Back in Navassa, cleanup of the Kerr-McGee Superfund site still hasn't started, despite the site being on the National Priority List for more than a decade. Mayor Willis remains concerned about the site's toxic past and the potential for future flooding that could further damage the community he loves. He's not sure if he'll live to see cleanup, telling us, "I hope so. I hope so."

CLEAN Future Act leads possible string of bills linking recycling issues to climate efforts
https://www.wastedive.com/news/clean-future-act-waste-recycling-initiatives/596174/
By Megan Quinn@MeganQuinn2
8 Mar. 2021

A new bill in Congress, meant to achieve net zero greenhouse gas emissions by 2050, names numerous waste and recycling efforts to help reach that goal, including some strategies outlined in other bills expected to make a comeback this year.

The Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act, introduced by Rep. Frank Pallone (D-N.J.), includes measures such as establishing post-consumer recycled content standards for certain products, standardizing recycling labels and creating multiple grant programs.

The bill incorporates or overlaps with elements of other notable federal recycling-related bills introduced in recent years, including the Break Free From Plastic Pollution Act introduced last year and the Zero Waste Act of 2019. Industry stakeholders see this as a sign that lawmakers are using multiple avenues to further recycling and waste reduction efforts as national attention on the issues increase.

It also draws on other energy, economic, infrastructure and job-related strategies. Waste and recycling initiatives are just one piece of the wide-ranging bill, but sponsors say they play a role in the effort to achieve net zero greenhouse gas emissions by 2050 and an interim 2030 goal of bringing those emissions down 50% from 2005 levels.

Pallone, chair of the House Energy and Commerce Committee, introduced the bill March 2 along with Environment and Climate Change Subcommittee Chairman Paul Tonko (D-N.Y.) and Energy Subcommittee Chairman Bobby Rush (D- Ill.). The sponsors said the bill aims to make substantive steps toward addressing climate change while creating jobs.

"We will not watch from the sidelines as the climate crisis wreaks havoc on Americans' health and homes," Pallone said in a statement announcing the bill.

Recycling and waste initiatives outlined in the bill include a plan to establish post-consumer recycled content standards for beverage containers and some other products, as well as implement a national bottle deposit program. It would also create a task force meant to establish an extended producer responsibility (EPR) system for certain products and would ask manufacturers to standardize labeling on some products to more accurately and clearly indicate their recyclability.

The plan directs the EPA to develop several grants, including $150 million for zero waste initiatives and $250 million for landfill diversion. It would also allocate $15 million for recycling and waste reduction education grants and $100 million for composting or anaerobic digestion projects. It also asks the EPA to standardize the labeling on recycling receptacles.

It would further direct the National Academy of Sciences to conduct a study on single-use products and product bans to determine any environmental, economic, or other effects of such bans.

The bill additionally seeks to place a "temporary pause" on permitting for new and expanded plastic production facilities so the EPA can update clean air regulations related to the facilities. Permits for any new or expanded plastic production facilities would have to address environmental justice impacts through assessments and meetings with affected communities.

The bill also addresses several aspects of environmental justice through provisions like authorizing grants for fenceline communities to participate in the regulation and monitoring of solid waste disposal sites, and requiring environmental justice impacts be considered when states create hazardous waste disposal plans.

Stakeholders say the inclusion of zero waste and recycling initiatives in the bill is a positive step toward achieving climate change goals, but have mixed feelings on certain provisions.

Environmental groups such as U.S. PIRG and the Natural Resources Defense Council have praised the bill in general terms, saying the country urgently needs comprehensive strategies to battle climate change, but some stakeholders are waiting to see how bill language evolves in committee hearings before commenting on specific provisions, said Alex Truelove, zero waste director at U.S. PIRG. He anticipates some segments of the bill will likely be fleshed out with more specific language, including the section calling for an EPR task force.

David Biderman, executive director of the Solid Waste Association of North America (SWANA), sees the bill language as being in early stages and anticipates providing further feedback "and collaborating with other stakeholders to improve the legislation," he said.

Though representatives from SWANA, the National Waste & Recycling Association and the Institute of Scrap Recycling Industries say they are still reading through the bill as written, they anticipate potentially getting on board with the bill's call for the EPA to fund grants for recycling education efforts – a topic the trade groups have supported in past bills such as the RECYCLE Act.

The trade groups also said they tentatively support the CLEAN Future Act's mentions of post-consumer content standards for beverage containers, saying it could help spur demand for certain recycled materials and encourage more recycling for some packaging types.

NWRA also supports the bill's product labeling requirements, which aim to more clearly mark which products and packaging are recyclable. Anne Germain, NWRA's chief operating officer and vice president of technical and regulatory affairs, said confusing labeling can lead to contamination in recycling. "Clear, unambiguous labeling that is undergirded by what is actually recyclable will help with recycling," she said in an email.

Other elements of the CLEAN Future Act have drawn criticism, including the section calling for a a temporary pause on new permits for facilities that produce plastics, or the raw materials used to produce plastics, such as ethylene and propylene.

Plastics Industry Association President and CEO Tony Radoszewski said the bill unfairly targets plastic and plastic recycling innovations. "Addressing climate change is a laudable goal, but the CLEAN Future Act—as currently introduced—aims to end the manufacture of one of our country's most valuable and sustainable materials: plastics," he said in a statement.

Radoszewski specifically mentioned the toll the bill could take on advanced recycling, the process of breaking plastics down to the molecular level using heat or another catalyst in order to use the "building blocks" to create new products. The CLEAN Future Act also would also pause permitting for facilities that "repolymerize plastics into chemical feedstocks."

Environmental groups, recyclers and the plastics industry are currently battling over advanced recycling's place in the circular economy in several states, including Virginia.

Others criticize the bill's proposal to create a national bottle bill program, which it says will be modeled after unnamed state bottle bill programs. Jim Riley, NWRA's general counsel and senior vice president of government affairs, said a national bottle bill could disrupt recycling markets, recycling facilities and taxpayers by removing about half of plastics and aluminum from curbside recycling streams. That could increase curbside recycling costs and reduce revenue for municipal recyclers, he said.

Industry and environmental groups say they don't expect the CLEAN Future Act to replace other relevant recycling bills that could also address some of their priorities. Bill sponsors anticipate the Break Free From Plastic Pollution Act to return in mid-March. A spokesperson from the office of Rep. Ilhan Omar (D-Minn.), sponsor of the Zero Waste Act, said she will also reintroduce her bill sometime later this year.

The overlapping bills could act as a "backstop" that gives recycling and waste reduction efforts multiple chances to make it through the legislative session, Truelove said. Experts already anticipate that other recycling bills may not be signed into law this year because of low bandwidth due to COVID-19 relief discussions. The CLEAN Future Act weighs in at 981 pages and covers numerous climate change strategies that will need to be discussed in multiple committees, which could make it hard to move through Congress before the legislative session is over, he said.

Hawaii department fined nearly $222K for operating cesspools
https://www.sfchronicle.com/news/article/Hawaii-department-fined-nearly-222K-for-16008706.php
March 8, 2021Updated: March 8, 2021 6:16 a.m.

HONOLULU (AP) — The Hawaii Department of Land and Natural Resources has been fined nearly $222,000 for operating seven large-capacity cesspools on Kauai island.

The Environmental Protection Agency banned the type of cesspool targeted in 2005 because they can pollute water resources and violate the Safe Drinking Water Act, Hawaii News Now reported Thursday.

The EPA has taken action before against the department, has collected over $400,000 in fines and closed 74 cesspools.

Cesspools collect and release untreated raw sewage into the ground, where pathogens and harmful chemicals can contaminate groundwater, streams and oceans.

Groundwater provides about 95% of the local water supply in Hawaii, Hawaii News Now reported.

Since the 2005 EPA ban, more than 3,600 large-capacity cesspools in Hawaii have been closed, but the agency said that hundreds are still in operation.

The state land and natural resources department said in a statement that it is working with the EPA to identify and close illegal cesspools still in operation.

A Novel, Colloidal Form of Activated Carbon Demonstrates Effective, In-Place Removal of PFAS From Groundwater
https://www.technologynetworks.com/analysis/articles/a-novel-colloidal-form-of-activated-carbon-demonstrates-effective-in-place-removal-of-pfas-from-346332
Mar 08, 2021 | By Kristen Thoreson, PhD, REGENESIS

PFAS in groundwater - A daunting environmental challenge

Per- and polyfluoroalkyl substances (PFAS) are estimated to contaminate more than 200 million Americans' drinking water[1]. After decades of manufacturing and release into the environment, the potential human epidemiological toll of PFAS is only now just beginning to be grasped. PFAS have been associated with wide-ranging health effects from cancers to physiological development issues and immune system deficiencies[2,3], to name just a few.

Approximately 40% of US drinking water is sourced from groundwater and an ever-increasing volume of this precious resource is being found to contain PFAS[4,5]. An unholy trinity of factors has contributed:

1. unmatched chemical persistence[6]
2. long-range mobility in groundwater[7]
3. near-ubiquitous use in consumer products, ranging from clothing and cookware to paper and paints[8]

Aqueous film-forming foams are still being used for fire suppression at aviation facilities worldwide and are particular PFAS hotspots. Consequently, PFAS have been found even in the remotest of places, including in Arctic polar bears' brain tissue[9].

PFAS concentrations detected in groundwater are often quite low, in the nanograms per liter or part per trillion (ppt) range. Nevertheless, even at these low levels, there could be unacceptable health risks caused by prolonged exposure. On February 22, 2021, the United States Environmental Protection Agency (EPA) made a final determination to regulate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) under the safe drinking water act, paving the way for their designation as hazardous substances and the determination of maximum contaminant levels (MCLs)[10]. Currently, the EPA lifetime health advisory limit for combined PFOA and PFOS is 70 ppt.

Ahead of the EPA, numerous states have determined PFOA and PFOS concentrations in groundwater above which remediation or other corrective action (e.g., risk assessment) is required. Several of the state "action levels" approach ten ppt, a concentration that is equivalent to a single drop evenly dispersed in two Olympic swimming pools. Effectively addressing the confounding volume of impacted groundwater that poses a risk and reducing PFAS below the ppt-level concentrations considered acceptable, are among the most significant challenges facing groundwater remediation professionals today.

Current methods for PFAS removal from groundwater

Activated carbon has been widely used for decades throughout the world to remove organic pollutants, mostly via mechanical groundwater extraction and filtration with sorptive media, such as granular activated carbon (GAC). This pump and treat (P&T) approach uses submersible pumps placed into screened extraction wells to create a hydraulic gradient. The rapid extraction depresses the water table and forms a groundwater capture zone, intercepting the impacted groundwater and pumping it through above-ground GAC vessels that sorb the contaminants out of the water. Clean water is typically discharged to a local public treatment works. Over time, the GAC will become saturated, or "spent", requiring the exchange of the spent GAC bed for new or regenerated GAC.

Historically, P&T has been an effective and reliable ex situ approach used by groundwater remediation hydrogeologists and engineers to prevent contaminant migration beyond a properly-placed line of extraction wells. There are drawbacks, however, to using a P&T approach for removing PFAS.

The use of mechanical P&T systems requires continuous maintenance to ensure operational efficiency and generates a contaminated waste stream that must be managed. P&T systems are also energy-intensive and subject to National Pollutant Discharge Elimination System (NPDES) permitting, sampling and reporting requirements to ensure the treated water is cleaned to the permitted levels.

A concern is developing around the pending "hazardous substance" designation of the spent GAC. This designation would result in spent carbon having to be managed as hazardous waste with further reporting, transportation, storage and disposal regulations in effect. Moreover, due to safe thermal incineration methods having yet to be established, recycling and disposal options may be limited for spent activated carbon.

A novel PFAS groundwater treatment technology - Colloidal activated carbon passive barriers

Over the past decade, scientists engaged in the PFAS-in-groundwater dilemma have researched, lab-tested and field-applied modified activated carbon materials to allow for the effective in situ (i.e., in place) removal of PFAS from groundwater.

The remediation approach rests on the simple concept of transforming aquifer materials into a groundwater purifying filter. This transformation occurs by injecting a modified form of activated carbon across an aquifer's vertical plane carrying the contaminants. This process forms a permeable reactive barrier (PRB) that passively treats groundwater as it naturally moves through the barrier. As the groundwater migrates across the PRB, PFAS is sorbed out of it, resulting in clean water discharge from the downgradient barrier wall face.

Figure 1: Figure depicting an in situ CAC PRB preventing migration of PFAS to sensitive receptors. Credit: Image Courtesy of REGENESIS.

Although simple in concept, specific technological hurdles had to be cleared for the approach to be practical. The first and easiest hurdle concerns the size restrictions of the aquifer materials. Typical sandy aquifer materials have openings, called pore throats, that are in the range of 10 microns. By comparison, common GAC is often in the range of 300 microns or larger. Materials scientists first had to reduce the particle size of the activated carbon, grinding them to the size of red blood cells (1 to 2 microns) to allow them to fit through the pore throats.

Shrinking their particle size alone will not permit carbon to readily pass through soil pore throats, however. This is due to the electrostatic attraction between the particles and the aquifer materials and between the particles themselves. To clear the electrostatic attraction hurdle required the micron-scale carbon to be modified into a colloidal suspension, made possible using a proprietary, non-toxic, polymeric and molecular additive treatment that stabilizes the particles and prevents them from agglomerating. Thus, a new colloidal activated carbon (CAC) material was born.

CAC passes through soil pores without resistance as the injected suspension propagates away from a delivery point (e.g., injection well or borehole). As the CAC moves through the aquifer materials, it also coats them with a thin carbon paint that encapsulates individual soil grains and leaves behind an immense surface area for chemical sorption. The single-micron CAC particle size also results in rapid kinetics for PFAS sorption, essentially removing them from groundwater immediately upon contact[11]. As PFAS are removed from groundwater in situ, the drinking water ingestion exposure pathway is eliminated, and so is the risk.

Figure 2: Scanning electron microscope image of sand grains before CAC treatment. Credit: Image Courtesy of REGENESIS.

Figure 3: Scanning electron microscope image of sand grains after CAC treatment. Credit: Image Courtesy of REGENESIS.

The emergent in situ PFAS removal approach using the CAC technology has demonstrated success in the field for nearing five years to-date. As verified by independent researchers, typical CAC PRB applications are designed to be effective for decades[12]. If, however, PFAS were to exceed the sorption capacity over time and break through, a second PRB can be installed downstream of the first to continue PFAS removal from the aquifer.

There are no known practical, safe methods for the chemical destruction of PFAS. Therefore, full-scale treatment of PFAS-impacted liquids or solids is currently limited to sequestration technologies that remove or bind PFAS but do not destroy them[13]. However, there is active research evaluating methods for the destruction

of PFAS, including a new startup funded by Bill Gates and other investors. As these treatment methods are developed, the in situ CAC treatment may enhance their effectiveness by concentrating the contaminants into a smaller volume of the aquifer, making PFAS easier to target and treat. CAC is commonly used for this sorption-enhanced destruction approach to treat other organic contaminants such as chlorinated solvents and petroleum hydrocarbons.

Treating the problem using this novel in situ method avoids long-term excessive maintenance costs for P&T systems. It also avoids the generation of waste streams that are soon to be deemed hazardous, making it a greener and more sustainable approach.

There are now over 100 PFAS removal projects in various planning and implementation stages as the adoption of the CAC technology increases worldwide.

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/16/2021 9:27:14 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 16 -- E&E News PM is ready

E&E News PM -- Late-Breaking News

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E&E NEWS PM

AN E&E NEWS PUBLICATION

E&E NEWS PM — Tue., February 16, 2021

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National Academies slams Trump admin chemical reviews

A withering new report from one of the country's leading science authorities faults EPA's approach to chemical risk evaluations under the Trump administration — a process the Biden EPA has already pledged to overhaul.

THIS AFTERNOON'S STORIES

2. CLIMATE:

IBM expects to go net zero by 2030

3. PEOPLE:

Top Trump EPA lawyer rejoins law firm

4. CLIMATE:

Industry groups want a say in social cost of carbon

5. AIR POLLUTION:

Power plant emissions plunged in 2020

6. PUBLIC LANDS:

Greens slam continued border wall construction in Ariz.

7. RECYCLING:

Study: More jobs in reuse than landfilling and incineration

UPCOMING HEARINGS AND MARKUPS

8. CALENDAR:

Activity for February 15 - February 21, 2021

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From: E&E News [ealerts@eenews.net]
Sent: 2/16/2021 12:08:41 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 16 -- Climatewire is ready

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AN E&E NEWS PUBLICATION

CLIMATEWIRE — Tue., February 16, 2021

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40% of climate benefits? Explaining Biden's EJ promise

President Biden gave three top White House officials until May 27 to come up with a plan for addressing racism in environmental policies. Here's what we know about the process.

TOP STORIES

2. EXTREME WEATHER:
U.S. housing agency faces 'systemic risk' from floods

3. LAW:
EPA: Court ruling did not revive Obama's Clean Power Plan

POLITICS

4. CALIFORNIA:
Seas are rising. Here's how the Legislature is responding

5. FINANCE:
Greens seek to 'choke off' funds to Line 3 pipeline project

CLIMATE IMPACTS

6. EMISSIONS:
Potent warming gas falls sharply in China

INTERNATIONAL

7. INDIA:
Nation's coal use may have peaked, report says

8. UNITED KINGDOM:
Surge in renewable power exposes grid risks

BUSINESS

9. ECONOMICS:
Study: Don't underestimate carbon's social cost

10. FINANCE:
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Message

From: E&E News [ealerts@eenews.net]
Sent: 2/4/2021 6:34:35 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 4 -- Greenwire is ready

Greenwire -- The Leader in Energy and Environment News

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GREENWIRE

AN E&E NEWS PUBLICATION

GREENWIRE — Thu., February 4, 2021

READ FULL EDITION

1. PUBLIC HEALTH:

Congressional inquiry finds toxic heavy metals in baby food

Top baby food brands contain "significant" levels of toxic heavy metals, according to a House Oversight and Reform subcommittee report released today that also divulged the Trump administration knew about the issue and neglected to act on it.

TOP STORIES

2. INTERIOR:

Tribes expect a voice on land and waters under Haaland

3. CLEAN WATER ACT:

EPA nominee gives Congress a peek at his plans for WOTUS

4. RENEWABLE ENERGY:

Solar companies respond to reports of forced labor in China

POLITICS

5. INTERIOR:

Colo. governor asks Biden to keep BLM in Grand Junction

6. EPA:

Michael Regan wants to hire a 'Chesapeake Bay czar'

CONGRESS

7. CLIMATE:

Report: Reconciliation can be used for clean energy standard

NATURAL RESOURCES

8. FOREST SERVICE:
Biden admin hits pause on work in roadless areas

9. NATIONAL PARKS:
Woman sentenced after faking her death at New River Gorge

10. INTERIOR:
Poll: Western voters support Trump's wildfire plans

11. ENDANGERED SPECIES:
Blaming border wall, greens push to protect Texas ocelots

12. WILDLIFE:
New pair of wolves spotted in Northern Calif.

13. FISHERIES:
Could artificial oyster reefs help threatened Gulf sturgeon?

AIR AND WATER

14. INFRASTRUCTURE:
'Time bomb': Mich. panel preps dam safety recommendations

WASTES & HAZARDOUS SUBSTANCES

15. CHEMICALS:
Regan faces lawmaker pressure on PFAS, plastics

STATES

16. NEW JERSEY:
122-year-old snow record may be broken: Just short of 3 feet

17. NORTH DAKOTA:
Cleanup underway after 21,000-gallon crude oil well spill

18. CALIFORNIA:
Sierra snowpack lags despite recent big storms

INTERNATIONAL

19. GERMANY:
Melting snow, rain cause widespread flooding

20. KASHMIR:
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Greenwire is written and produced by E&E News, which is staffed by a dedicated reporting team within the POLITICO newsroom. It's the one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day. Greenwire covers a complete spectrum of issues, from energy policy to Clean Air Act litigation to public lands management. Greenwire publishes daily by 1:30 p.m.

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From: Caughie, Nuala [Caughie.Nuala@epa.gov]
Sent: 3/3/2021 9:50:19 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition 3/3/2021

Chemicals

Seresto flea collars named in thousands of complaints involving nearly 1,700 pet deaths
Popular flea collar linked to 1,700 pet deaths across U.S.
EPA issued no warning about popular flea collar linked to 1,700 pet deaths: Report

Water

Arizona agency investigates water contamination from base

Policy

Republicans press Biden environment nominee on Obama-era policies
Biden EPA nominee takes heat for role in Obama Clean Power Plan
Biden Picks Grilled on Clean Power, Stay on Confirmation Path

Emissions

California Air and Climate Vol 18: EPA Waiver to CARB Regarding "Non-Road" Diesel Engine Regulations Upheld; Phasing Out Agricultural Burning in San Joaquin Valley by 2025

Seresto flea collars named in thousands of complaints involving nearly 1,700 pet deaths

https://www.consumeraffairs.com/news/seresto-flea-collars-named-in-thousands-of-complaints-involving-nearly-1700-pet-deaths-030321.html

A top-selling flea and tick collar has reportedly been linked to nearly 1,700 pet deaths and 1,000 incidents involving harm to humans, according to the Midwest Center for Investigative Reporting.

The group says Seresto pet collars have been named in approximately 75,000 incident reports with the Environmental Protection Agency (EPA), but the agency has yet to issue an official warning about the apparent risks of the collars.

"The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation," Karen McCormack, a former EPA official, said of the agency, according to the report. "But I think this is a significant problem that needs to be addressed sooner rather than later."

McCormack added that Seresto collars, which are developed by Bayer and manufactured by Elenco, "has the most incidents of any pesticide pet product" she's ever seen.

EPA responds

Seresto's pet collar works by slowly releasing chemicals into the pet's body over time. The active ingredients are imidacloprid and flumethrin. The former affects the central nervous system of fleas, and the latter repels and kills ticks.

In the report, an EPA spokesperson was quoted as saying that no pesticide "is completely without harm."

"EPA ensures that there are measures on the product label that reduce risk," the spokesperson said. "Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

In another statement, the agency appeared to place some of the blame for its inaction on the Trump administration

"Under the Biden-Harris Administration EPA has returned to its core mission, which includes protecting our pets' health," the statement said. "We take every incident reported seriously and review these data to see whether action is necessary."

The agency said it "encourages pet owners to read the entire label before using the pesticide product and follow all directions carefully, including monitoring your pet after application to see if side effects occur. If side effects develop, the label tells the consumer to consult the pet's veterinarian immediately."

Consumer reviews

As of June 2020, the collars have been linked to numerous incidents involving both pet and human harm, according to EPA documents.

Consumers reviewing the product on Amazon have said they noticed changes in their pet's behavior that appeared to crop up in connection with the use of the collar. Others have claimed the collar caused skin rashes or neurological issues in their pets.

"Put this collar on my 10 pound Maltese and 14 pound Shih Tzu in May 2016," one reviewer said. "Within 3 days the Shih Tzu was laying in his bed all day whining and every time I picked him up he would cry out, as if he was in pain.... take the collar off, bathe him AND by the next morning he is back to normal!!!! Called my Vet and Bayer and was told he must be allergic to an ingredient in the collar."

Although the number of reported incidents may be far fewer than the number of incidents that have actually occurred, the sheer volume should be a cause for concern for pet owners. Nathan Donley, a senior scientist at the Center for Biological Diversity and an expert on U.S. pesticide regulation, told USA Today that the reported incidents are "just the tip of the iceberg."

"My God, if this doesn't trigger a concern, that's a fundamental problem with the process," Donley said in the report. "The fact that EPA has not done anything to alert the public that there might be an issue here, it strikes me as bordering on criminal. The EPA has this system in place to compile information and it's just collecting dust in some database."

Popular flea collar linked to 1,700 pet deaths across U.S.

https://www.ajc.com/news/popular-flea-collar-linked-to-1700-pet-deaths-across-us/N6ECNWGBYJCRLP6Q7M6KL4AT6M/

Seresto collar still being sold on Amazon; EPA hasn't warned public of any potential risks

A popular flea and tick collar has been linked to nearly 1,700 pet deaths across the country, according to reports citing documents obtained from the U.S. Environmental Protection Agency.

The Seresto collar, which can be worn for months as it releases small amounts of pesticide onto an animal's fur, is also suspected of sickening or injuring tens of thousands of cats and dogs as well as hundreds of their owners, reports said.

Seresto, developed by Bayer in 2012 and distributed by Elanco, is the top-selling collar on Amazon and is widely advertised as being safe for pets.

But the EPA — which regulates pesticides — has not warned the public to any potential risks of using the product despite receiving at least 1,698 reports of deadly incidents since the collar arrived on the market.

The federal agency has received more than 75,000 incident reports related to the collars, including nearly 1,000 reports of human illnesses through June 2020, according to USA Today.

The alarming number of deaths was known behind the scenes for years but only became public knowledge after the Center for Biological Diversity — a nonprofit watchdog group — obtained documents from the EPA through a public records request.

"The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation," said Karen McCormack, a retired EPA employee who called the staggering number of deaths and illnesses unprecedented. "I think this is a significant problem that needs to be addressed sooner rather than later."

It's unclear how Seresto compares to the safety of other pet collars.

A spokesperson for the agency told USA Today that the two pesticides found in Seresto were "eligible for continued registration" based on the latest scientific data and testing.

"No pesticide is completely without harm, but EPA ensures that there are measures on the product label that reduce risk," the spokesperson wrote in an email. "The product label is the law, and applicators must follow label directions. Some pets, however, like some humans, are more sensitive than others and may experience adverse symptoms after treatment."

Through the years, the collar had received numerous complaints from customers who claimed the collar had caused pets skin rashes and neurological issues.

In one case last year, a New Jersey veterinarian suggested an owner buy the Bayer Seresto collar for use on her indoor service animal.

Rhonda Bomwell's 9-year-old Papillon suffered a seizure June 2 after wearing the collar for one day, reports said.

The dog, Pierre, collapsed and stopped breathing.

Bomwell said she administered CPR but never thought to remove the collar. She rushed Pierre to the hospital, but he died before receiving treatment.

"I just didn't put it together," she said, noting that she had never used a flea and tick collar before.

EPA issued no warning about popular flea collar linked to 1,700 pet deaths: Report

https://www.washingtonexaminer.com/news/epa-issued-no-warning-on-collar-linked-to-pet-deaths

The Environmental Protection Agency did not warn consumers about a popular flea and tick collar that's been linked to 1,700 pet deaths despite having documents indicating that it caused hundreds of pet deaths and thousands of injuries.

Seresto, a collar developed by Bayer and sold by Elanco, works by releasing small amounts of pesticide onto the animal wearing it for months at a time, according to a report by the Midwest Center for Investigative Reporting.

The pesticide is used to kill fleas, ticks, and other pests, but it is supposed to be safe for dogs and cats. However, the effects of the collar have hurt thousands of animals, including Rhonda Bomwell's 9-year-old Papillon service dog named Pierre.

Bomwell, of New Jersey, purchased a collar after it was recommended by her veterinarian, but a day after Pierre began wearing the Seresto collar, he had a seizure, collapsed with his eyes rolled back, and stopped breathing.

"I just didn't put it together," Bomwell said, referring to his death being linked to the collar.

Since Seresto collars were introduced in 2012, the EPA has received at least 1,698 incident reports of pet deaths. Through June 2020, the agency had more than 75,000 incident reports, including almost 1,000 that involved human harm.

Karen McCormack, a retired EPA employee who worked as a scientist and communications officer, said the agency knew of the risks but did not inform the public and that the collars had the most incident reports of any pesticide pet product she's ever seen.

"The EPA appears to be turning a blind eye to this problem, and after seven years of an increasing number of incidents, they are telling the public that they are continuing to monitor the situation, but I think this is a significant problem that needs to be addressed sooner rather than later," McCormack said.

The EPA, which is in charge of regulating products that contain pesticides, told the *Washington Examiner* that the agency takes reported incidents seriously and encourages pet owners to look carefully at a product's label before deciding to use it.

"Under the Biden-Harris Administration, EPA has returned to its core mission, which includes protecting our pets' health," an agency spokesperson said via email. "We take every incident reported seriously and review these data to see whether action is necessary. EPA encourages pet owners to read the entire label before using the pesticide product and follow all directions carefully, including monitoring your pet after application to see if side effects occur. If side effects develop, the label tells the consumer to consult the pet's veterinarian immediately."

Keri McGrath, a spokeswoman for Elanco, said that the company takes the safety of their products "very seriously and thoroughly investigates potential concerns related to their use."

McGrath also said global data shows 1 in 568 users of Seresto have an incident and that the majority are "nonserious effects," such as reddening of skin or hair loss below the collar.

"Keep in mind that the existence of an adverse event report does not necessarily mean the product caused the problem," McGrath said. "Causality between the observed signs and the use of the product is evaluated on a case-by-case basis. That said, every adverse event collected, regardless of causality, is reported to the authorities."

But Ron Packard, a Massachusetts resident who created a Facebook page to raise awareness of the issue, is asking people to share their stories and help prevent others from losing their beloved pets. His two dogs died shortly after wearing the Seresto collars. Packard is encouraging everyone to report their story to the EPA.

"I don't want others to go through what we went through," Packard said. "Every time I read the stories, it brings me back to my dogs. But if I can save a few pets, I can deal with it."

Arizona agency investigates water contamination from base

https://www.theintelligencer.com/news/article/Arizona-agency-investigates-water-contamination-15997473.php

PHOENIX (AP) — The Arizona agency that regulates utilities is calling together water companies near Luke Air Force Base in metro Phoenix, where drinking water was found to be contaminated with chemicals commonly found in firefighting foam.

The Arizona Corporation Commission was holding an emergency open meeting Wednesday afternoon to discuss the recent discovery of the chemicals — which prompted the U.S. Air Force to start distributing bottled water to thousands of residents and business owners.

Commissioner Anna Tovar has encouraged affected residents to join the meeting being held online.

"I want to make sure the residents and businesses near the base can trust the water coming out of their taps," Tovar said before the meeting.

Luke Air Force Base said in February that studies showed high levels of contaminants had affected drinking water for about 6,000 people in roughly 1,600 homes plus several neighboring businesses.

The base has recommended that people in the affected area use bottled water for drinking and cooking but deemed tap water safe for bathing and laundry.

In the meantime, a contractor is delivering drinking water to homes until a long-term filtration facility can be set up in April, a base spokesman said last week.

Similar contamination tied to the use of firefighting foam has been found in water supplies near dozens of military sites in Arizona, Colorado and other states, triggering hundreds of lawsuits.

Growing evidence that it is dangerous to be exposed to the chemicals found in the foam has prompted the U.S. Environmental Protection Agency to consider setting a maximum level for those chemicals in drinking water nationwide.

But they aren't regulated now, meaning the base cannot be punished even though the EPA says the chemicals stay in the body for long periods and may cause adverse health effects.

The Arizona Department of Environmental Quality has said it is working with the base, regulators and federal and local officials to ensure actions are taken to ensure healthy drinking water for residents.

A statement from Luke Air Force Base last month said testing had detected levels of perfluorooctanoic acid and perfluorooctane sulfonate above the EPA's health advisory for how much should be consumed in drinking water over a person's lifetime.

The so-called forever chemicals from a class known collectively as PFAS were found during tests of water from Valley Utilities Water Co.

The compounds are used in many industrial and consumer products and in foam used by commercial industries and the armed services to extinguish fuel fires.

The U.S. Air Force Academy in 2019 said unsafe levels of PFAS were found in groundwater at four sites on its Colorado Springs campus, south of Denver. The chemicals also have been discovered around the Peterson Air Force Base in Colorado Springs.

Republicans press Biden environment nominee on Obama-era policies

https://thehill.com/policy/energy-environment/541441-republicans-press-biden-environment-nominee-on-obama-era-policies

Republicans senators pressed one of President Biden's nominees for a major environmental post on a power plant regulation she helped promulgate during the Obama administration.

The lawmakers on the Environment and Public Works Committee particularly honed in on the regulation during a hearing to examine Janet McCabe's nomination to be deputy Environmental Protection Agency (EPA) administrator and that of Brenda Mallory to lead the White House Council on Environmental Quality (CEQ).

"Do you believe that the EPA has the authority to...regulate a power plant's carbon dioxide emissions outside the fence line as the Clean Power Plan did?" the panel's top Republican, Sen. Shelly Moore Capito (W.Va.), asked McCabe.

"The Clean Power Plan was one of the most important and impactful rules that we worked on during the Obama administration," McCabe said.

"We've never had a legal ruling on that very question and certainly we would not have put that rule forward if we did not believe we were acting within the four corners of the Clean Air Act," she added.

Sen. Kevin Cramer (R-N.D.) called the Clean Power Plan "one of the most overbearing, big government impositions on states," and told McCabe she has "a lot to answer for."

"I know that there were many who disagreed with the outcome of that rule, but in terms of listening to people and hearing people and taking everybody's perspective into account, we certainly did that," McCabe replied. "The rule was about carbon emissions...but what we tried to do in that rule was build a very flexible approach."

During his own confirmation hearing, Biden's pick to lead the agency, Michael Regan, pledged to operate with a "clean slate."

During the Obama administration, McCabe served as acting assistant administrator of the EPA's Office of Air and Radiation. If confirmed, she'd be the agency's second-in-comment.

Mallory served as the CEQ's top lawyer during the Obama administration. In her new role, she would take charge of an office that deals with the implementation of the National Environmental Policy Act (NEPA) and advises the president on issues like environmental justice, public lands and wildlife conservation.

She may take action to reverse the Trump administration's rollbacks to protections provided under NEPA, which requires environmental analyses ahead of projects like pipelines, highways and drilling on public lands.

The Trump administration sought to reduce the amount of time that environmental reviews under the law take, from about 4 1/2 years to two years.

It also removed requirements to consider climate change impacts, complicated the procedure for community input and allowed more industry involvement in environmental reviews.

"I view the challenge of finding a way to ensure that NEPA is serving its multiple purposes in a way that allows the president's full agenda to be met as the challenge that we face," Mallory said during the hearing on Wednesday.

"It not only has to create an opportunity for there to be a full, robust analysis of the impacts on major projects, it has to create an opportunity for there to be a way for citizens and the community to engage, but it also has to be done in a way that ensures that we have significant infrastructure projects and that economic recovery which is based on those projects can occur," she added

Cramer questioned Mallory about her stance on pipelines in light of her work with an environmental group that has opposed some of them in court, asking, "Have you ever supported a pipeline?"

"In my life as a private practice lawyer, I worked with pipelines and helped pipelines get permitted as well but that was 20 years ago and what I'm focused on now is serving President Biden's agenda."

Cramer also asked the nominee to guarantee that the White House would not "interfere politically" with a decision before the Army Corps of Engineers about whether to shut down the Dakota Access Pipeline after a court ruled against a permit that allowed it to move forward.

"I can commit that I will carry out the president's agenda in making sure that decisions that are made are based on sound science," Mallory replied.

Biden EPA nominee takes heat for role in Obama Clean Power Plan

https://www.washingtonexaminer.com/policy/biden-epa-nominee-gop-clean-power-plan

Republican lawmakers told Janet McCabe, President Biden's pick for the Environmental Protection Agency's second-in-command, that they don't fully trust her given her involvement in crafting climate mandates during the Obama administration.

During a Senate Environment and Public Works Committee nomination hearing Wednesday, several Republicans from fossil fuel states pointed to McCabe's role, alongside then-EPA Administrator and now Biden climate czar Gina McCarthy, developing the Obama administration's centerpiece climate rule, known as the Clean Power Plan. McCabe

served seven years as a political appointee in the EPA's air office during the Obama administration, ultimately as its acting chief.

"You have a steeper hill to climb, frankly, that most," Sen. Kevin Cramer, a North Dakota Republican, told McCabe. Cramer voted in committee to support Biden's nominee to lead the EPA, Michael Regan, with hopes he will "keep an open mind."

Cramer recalled that McCabe, during a prior nomination hearing, promised to work with states on environmental regulations.

"And yet the Clean Power Plan proved to be one of the most overbearing big government impositions on states ever," Cramer said.

The Clean Power Plan issued first-time carbon limits for existing power plants, setting a nationwide goal for the sector to cut its emissions 32% below 2005 levels by 2030. Under the rule, each state had its own reduction target, and state regulators were tasked with crafting a plan to meet it.

Cramer said his state felt blindsided after the Obama EPA significantly ratcheted up North Dakota's emissions reduction target between the proposed and final versions of the power rule, from an 11% to a 45% required cut.

Several other GOP senators told McCabe they also felt their states were cut out of the decision-making process on climate regulations.

"There was a feeling back in the Obama administration in developing the Clean Power Plan that there was a Washington, D.C., decision forced on the states, and we didn't have a practice of cooperative federalism," said Sen. Roger Wicker, a Mississippi Republican.

McCabe, if confirmed, would likely play a significant role in developing the Biden administration's version of power plant carbon controls. Just before Biden's inauguration, a federal appeals court struck down the Trump administration's weaker carbon rule, essentially giving Biden's team at the EPA a blank slate to craft a regulation that helps meet his aggressive climate agenda.

McCabe didn't directly answer a question from Sen. Shelley Moore Capito of West Virginia, the top Republican on the committee, about how broad of a regulatory reach she thinks the EPA has over power plant emissions.

Republicans slammed the Clean Power Plan for encouraging generation shifting from coal to cleaner burning natural gas and renewable energy, a "beyond the fenceline" approach they said far exceeded the EPA's authority.

McCabe, however, noted the courts never ruled on the legality of the Clean Power Plan, which was put on pause by the Supreme Court in 2016 and then rewritten by the Trump administration.

"Certainly, we would not have put that rule forward if we did not believe that we were acting within the four corners of the Clean Air Act. I understand that people have different views about that," McCabe told Capito. McCabe added she wasn't sure whether she would be directly involved in crafting a new power sector rule but noted the EPA would solicit input from all stakeholders on the issue.

McCabe also defended the development of the Clean Power Plan, which she called "one of the most important and impactful rules" she worked on during the Obama administration. She said the Obama EPA undertook a "lengthy" process that involved "hours and hours" of conversations with state officials about how to cut emissions.

"My state is also a state with a lot of fossil energy, and it had a large reduction expectation as well," she said, referring to Indiana, where she previously led air policy in its Department of Environmental Management. "But what we tried to do in that rule was build a very flexible approach" to give states as many options as possible, she added.

Biden Picks Grilled on Clean Power, Stay on Confirmation Path

https://news.bloomberglaw.com/environment-and-energy/biden-picks-grilled-on-clean-power-stay-on-confirmation-path

Two of President Joe Biden's picks for top environmental posts sailed mostly unscathed through a congenial Senate hearing Wednesday, increasing chances they'll win confirmation.

The confirmation of Janet McCabe as Environmental Protection Agency deputy administrator and Brenda Mallory as Council on Environmental Quality chief would let Biden lock down two more Obama-era veterans for a team already brimming with holdovers from that administration.

That prospect seemed to trouble some Republicans on the Senate Environment and Public Works Committee. They tried to link the nominees to past policies they disfavor, most notably by asking McCabe about her involvement in the Obama administration's Clean Power Plan.

The Clean Power Plan was "one of the most overbearing, big-government impositions on states ever," despite McCabe's promises during the Obama years to embrace federalism and states' rights, Sen. Kevin Cramer (R-N.D.) said.

Ranking member Shelley Moore Capito (R-W.Va.) also grilled McCabe on the topic, asking the nominee if she thought the EPA has authority under the Clean Air Act to regulate power plants' carbon dioxide emissions beyond the fenceline.

Few Signs Given

McCabe defended the Clean Power Plan but gave few signs about specific steps the agency would take to limit greenhouse gas emissions. She also said she wasn't sure if the job of EPA deputy administrator would require her to be directly involved in any future rulemakings.

The Biden administration is reviewing new climate and environmental rules, including carbon regulations for new and existing power plants. In February, the EPA asked a federal court to leave the Clean Power Plan in limbo to avoid confusion over whether its obligations would kick in now that the Trump administration's replacement, the American Clean Energy rule, is dead.

At another point in the hearing, Capito said she was confused by the panoply of high-ranking Biden climate and energy officials, including domestic climate chief Gina McCarthy, climate envoy John Kerry, and EPA administrator nominee Michael Regan.

"How does this all fit together?" Capito asked. "Who's the lead here?"

Mallory said the roles will be clearly coordinated, and McCabe said Regan will be making the decisions at the EPA.

NEPA Streamlining

Lawmakers from both parties also asked Mallory what steps she would take to streamline permitting under the National Environmental Policy Act to promote economic growth.

Mallory said she would strive to find a middle path if confirmed. Under her leadership, CEQ will do robust analyses of permits, "but it also has to be done in a way that ensures that we have significant infrastructure projects and that economic recovery, which is based on those projects, can occur," she said.

Sen. Cynthia Lummis (R-Wyo.) asked Mallory to explain why the individual members of the team that recalculated the social cost of carbon in late February haven't been revealed, suggesting the lack of disclosure indicates a non-transparent process.

In response, Mallory said the process Obama used to calculate the social cost of carbon involved public participation, and that "a new process is being set up."

At various points, Republicans suggested that both McCabe and Mallory represented an elitist ideology disconnected from the concerns of rural and red states.

Sen. Joni Ernst (R-Iowa) said McCarthy has perpetuated a "we-know-best attitude that's pretty common among our coastal elite counterparts."

McCabe was the principal deputy head of the EPA's Office of Air and Radiation in the Obama administration, where she played a key role in shaping the Clean Power Plan. More recently, McCabe has been a professor at the Indiana University Robert H. McKinney School of Law and director of the university's Environmental Resilience Institute.

Mallory, who would be the first Black CEQ leader, was the agency's general counsel during the Obama administration. Prior to that, she was the EPA's acting general counsel and principal deputy general counsel.

Regan also underwent a mostly congenial confirmation hearing in early February. The committee approved his nomination and a vote on the Senate floor is expected this month.

California Air and Climate Vol 18: EPA Waiver to CARB Regarding "Non-Road" Diesel Engine Regulations Upheld; Phasing Out Agricultural Burning in San Joaquin Valley by 2025

https://www.jdsupra.com/legalnews/california-air-and-climate-vol-18-epa-6061935/

Ninth Circuit Upholds U.S. EPA Waiver to CARB Regarding "Non-Road" Diesel Engine Regulations

On February 10, 2021, the U.S. Court of Appeals for the Ninth Circuit denied a challenge to the U.S. Environmental Protection Agency's (EPA) waiver of authority to the California Air Resources Board (CARB) to issue emissions regulations for "non-road" diesel engines that are stricter than federal requirements under the federal Clean Air Act (CAA). (*See Dalton Trucking, Inc. v. U.S. EPA*, Case No. 13-74019 (9th Cir. Feb. 10, 2021).) Several trucking and industry groups brought the challenge, which specifically relates to EPA's granting of a request by CARB to authorize CARB's In-Use Off-Road Diesel Fueled Fleets Regulation (Fleet Requirements). CARB's Fleet Requirements regulate the use of non-road diesel engines often used in construction or other industrial activities with the goal to reduce certain emissions such as nitrogen oxides (NOx) and particulate matter (PM). Under the CAA, EPA "shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from" specified non-road vehicles or engines "if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards." (42 U.S.C. § 7543(e)(2)(A).) However, "[n]o such authorization shall be granted" if EPA finds that (among other things) "California does not need such California standards to meet compelling and extraordinary conditions." (42 U.S.C. § 7543(e)(2)(A)(ii).) The industry groups argued in relevant part that CARB's Fleet Requirements were not needed to "meet compelling and extraordinary conditions" as anticipated under the CAA. However, the Ninth Circuit disagreed and concluded that under the relevant legal test, CARB provided sufficient data and a satisfactory explanation to EPA for the Fleet Requirements so that CARB can meet its goals under the CAA. Accordingly, the Ninth Circuit denied the industry groups' petition for review.

Agricultural Burning to be Phased-Out in San Joaquin Valley by 2025

At its February 25, 2021 meeting, CARB concurred with the San Joaquin Valley Air Pollution Control District's (SJVAPCD) 2020 Agricultural Burning Assessment setting a pathway to end this practice by 2025. The San Joaquin Valley has 60 percent of the state's harvested acres and contributes 36% of PM 2.5 emissions from open agriculture burning in the state, about two tons per day. SB 705, codified at California Health and Safety Code section 41855.5, called for the ending of agricultural burning in the San Joaquin Valley by 2010, but provides for the postponement of this requirement to allow for the development of viable alternatives.

SJVAPCD was one of the first air districts to restrict open air agriculture burning and by 2011, the region had reduced burning by 80 percent. Since 2011, however, burning has increased due to drought conditions and the closure of several biomass facilities. Currently, vineyard removals are the single largest category of burning in San Joaquin Valley at 71%.

The 2020 Assessment calls for a phase-out of all agricultural burning by 2025, but allows continued burning of certain crop materials including vineyard and citrus orchard removals in the interim, to allow additional time to develop viable alternatives to burning. The Assessment highlights the need to provide funding and incentives to expand access to burning alternatives and to explore biomass and bioenergy opportunities. Additional information is available here.

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/16/2021 11:54:46 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 16 -- E&E Daily is ready

E&E Daily -- Congress. Legislation. Politics.

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AN E&E NEWS PUBLICATION

E&E DAILY — Tue., February 16, 2021

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Committee set to become energy, environment battleground

The Senate Democratic takeover and several retirements will make the Appropriations panel fertile ground for some of the sharpest debates over President Biden's energy and environmental agenda.

TOP STORIES

2. AGENDA:
Democrats ready post-impeachment COVID-19 sprint

3. CLIMATE:
Lawmakers to examine power sector decarbonization

4. NOMINATIONS:
Senate leaders set vote on U.N., Agriculture picks

ON THE HILL

5. HOUSE:
Progressive N.Y. freshman takes over Energy Subcommittee

6. WATER POLICY:
House members urge Biden to tap harbor maintenance fund

7. ELECTRIC VEHICLES:
Senate Democrats push Biden to remake federal fleet

UPCOMING HEARINGS AND MARKUPS

8. CALENDAR:
Activity for February 15 - February 21, 2021

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From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 2/19/2021 4:55:41 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition, 2/19/21

Daily Media Clips: Frebruary 19, 2021 (morning edition)
Biofuels
AG Wired: Biofuels Groups Oppose General RFS Waivers
DTNPF: RFS Transparency Bill Introduced in US House of Representatives
Water
The San Diego Union-Tribune: Column: Mexico's effort will be key in reducing sewage spills; U.S. can't do it alone
Cleveland: Lakewood facing quarter-of-a-billion-dollar plan to update city's 100-year-old sewer system
The Daily Journal: Officials call for Redwood City's salt pond protections

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Biofuels Groups Oppose General RFS Waivers
http://energy.agwired.com/2021/02/19/biofuels-groups-oppose-general-rfs-waivers/
CINDY ZIMMERMAN FEBRUARY 19, 2021

Biofuels organizations filed comments this week opposing requests from refiners, several state governors, and an environmental organization that the Environmental Protection Agency waive 2019 and 2020 Renewable Fuel Standard volumes.

"None of the petitions provides the required evidence that the RFS itself is causing economic or environmental harm. In fact, the requests point to the continuing coronavirus emergency as the cause of economic harm, rather than the RFS," National Biodiesel Board (NBB) Vice President of Federal Affairs Kurt Kovarik said. "The petitions discount the economic harm that small biodiesel producers experience when the RFS program is delayed and destabilized. EPA should reject the petitions."

American Coalition for Ethanol (ACE) CEO Brian Jennings noted that the RFS itself must be proven to be the cause of "severe economic harm" to justify a waiver, not outside factors such as the economic fallout from the COVID-19 pandemic, the primary argument made by the parties. "The pandemic-related shutdowns caused comparable economic harm to ethanol producers and virtually every other sector of the U.S. economy," said Jennings.

"These waiver requests, which were rushed out the door by EPA one day before President Joe Biden was sworn in, never should have seen the light of day," said Renewable Fuels Association President and CEO Geoff Cooper. "They do not satisfy any of the criteria established by the statute and they do not comply with past EPA guidance."

RFS Transparency Bill Introduced in US House of Representatives
https://www.dtnpf.com/agriculture/web/ag/blogs/ethanol-blog/blog-post/2021/02/19/rfs-transparency-bill-introduced-us
2/19/2021 | 8:22 AM CST

By Todd Neeley

The Congressional Biofuels Caucus introduced the Renewable Fuel Standard Integrity Act on Thursday, which would require the EPA to be more transparent about small-refinery exemptions.

Back in September 2020, now-former House Agriculture Committee Chairman Collin Peterson, D-Minn., released the language of the bill.

The legislation would set an annual June 1 deadline for refiners to request exemptions from the RFS and require EPA to publicly release the name of refiners requesting waivers, the number of gallons requested to be waived and the number of gallons of biofuel that will not be blended as a result of the waiver.

The bill has been endorsed by Growth Energy, Fuels America, the Renewable Fuels Association, the National Biodiesel Board, National Corn Growers, the American Soybean Association, and other groups, https://www.congress.gov/....

Co-chairs of the caucus are Reps. Angie Craig, D-Minn., Cindy Axne, D-Iowa, Rodney Davis, R-Ill., Dusty Johnson, R-S.D., and Adrian Smith, R-Neb.

During the Trump administration biofuels and agriculture groups pressed the EPA for more information about small-refinery exemptions. Trump's EPA granted 88 SREs from 2016 to 2020. There has been a number of court challenges to the program, including a lawsuit filed by biofuels groups seeking more information about the exemptions.

Also, this week the EPA closed a public-comment period on a number of RFS general exemption requests for 2019 and 2020 from oil-refiners, the governors of six states and the National Wildlife Federation.

"These waiver requests, which were rushed out the door by EPA one day before President Joe Biden was sworn in, never should have seen the light of day," Renewable Fuels Association President and Chief Executive Officer Geoff Cooper said in comments.

"They do not satisfy any of the criteria established by the statute and they do not comply with past EPA guidance. Continuing this charade now shows a clear misunderstanding of the statutory waiver provisions and demonstrates a complete lack of knowledge regarding how the RFS actually works.
The governors themselves acknowledge that the real source of economic harm experienced by refiners in 2020 was COVID-19, not the RFS. That admission alone should immediately disqualify these requests from any further consideration."

American Coalition for Ethanol Chief Executive Officer Brian Jennings said in comments the parties "fail" to satisfy the statutory evidentiary requirements and precedent from 2008 and 2012 which require EPA to determine that the RFS itself must be proven to be the cause of "severe economic harm" to justify a waiver, not outside factors such as the economic fallout from the COVID-19 pandemic.

"The pandemic-related shutdowns caused comparable economic harm to ethanol producers and virtually every other sector of the U.S. economy," Jennings said.

A group of more than 3,000 union members, refinery workers and manufacturers said in comments relief was necessary as eight refineries in the past year announced closures, "resulting in a direct loss of more than 3,500 refiner jobs and tens of thousands of related jobs, coupled with nearly 19 billion gallons of refined fuel products like gasoline, jet fuel and home heating oil taken off the market."

Pennsylvania Democratic Gov. Tom Wolf, "Since my previous petitions were filed, conditions have continued to deteriorate. The number of East Coast facilities that have closed has increased to eight and Pennsylvania now has only one remaining large refinery, Monroe Energy's Trainer facility. In an SEC (U.S. Securities Exchange Commission) filing last week, Monroe Energy's parent company reported an operating loss at the refinery of $216 million in 2020 with $172 million of the loss attributable to RINs (Renewable Identification Number) expenses."

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Column: Mexico's effort will be key in reducing sewage spills; U.S. can't do it alone
https://www.sandiegouniontribune.com/columnists/story/2021-02-19/column-tijuanas-effort-will-be-key-in-reducing-sewage-spills-u-s-cant-do-it-alone
By MICHAEL SMOLENS
FEB. 19, 2021 5 AM PT

Mexico says water-recycling project and infrastructure upgrades are moving ahead as U.S. plans to spend $300 million to divert sewage flows

Big projects aimed at stemming the toxic sewage flowing from Tijuana into Imperial Beach and the surrounding region are on the horizon and that's a welcome development.

But any such improvements come with a nagging question based on historical experience: How long will this fix last?

Cross-border pollution has been a problem for the better part of a century and has defied past efforts to solve it. It's not that previous actions didn't help. Some did, and they greatly diminished the health and environmental threat — and reduced beach closures.

But as Tijuana grew, so did the polluted discharges and those facilities built to handle them eventually became overwhelmed. That perhaps has never more been the case than in recent years, as the border city has boomed and its crumbling infrastructure has failed to keep up.

Much attention rightly has been focused on the $300 million from the U.S. federal government secured through the United States-Mexico-Canada trade agreement for border infrastructure. Most of that will be spent in the San Diego region to bolster a system to divert toxic spills of sewage, chemicals and trash from heading down the Tijuana River Valley and into the ocean off Imperial Beach.

But a lot is riding on Mexico following through with plans to improve its sewage system and complete a water-recycling project that would clean up tainted effluent so it can be used to irrigate vineyards in the Guadalupe Valley.

Imperial Beach Mayor Serge Dedina, perhaps the loudest voice on the need for action on border sewage, once called water reuse a potential "game changer."

"That kind of project is absolutely the future," he said in a recent interview, referring to a partnership between the Baja California government and an Israeli company, ODIS Asversa, to build a water-recycling plant.

He said recycling systems not only would help with the border spills, but also provide a potential solution to the water shortage facing Northern Baja agriculture and industry.

Details of the coming U.S.-financed border initiative, along with what officials in Mexico have planned, were laid out in a recent in-depth report by Joshua Emerson Smith and Wendy Fry of The San Diego Union-Tribune.

Their story delved into the depressing impact of the sewage flows, from the noxious stench and health hazards in Tijuana neighborhoods to the increased beach closures near the Imperial Beach Pier, Silver Strand and Border Field State Park.

For decades, Imperial Beach officials have issued clarion calls about the problem, but the response didn't match the problem.

"It's exhausting for our city to be constantly in this sentinel role," Dedina said.

The cavalry appears to have arrived. Over the past handful of years, the San Diego congressional delegation, county Board of Supervisors, business leaders, state officials and U.S. Sen. Dianne Feinstein worked with South Bay representatives to bring more resources to the problem, culminating in the $300 million in border infrastructure money.

"We're all on the same page to push really hard," said Dedina on Tuesday, noting he had just had a meeting on the matter with Rep. Scott Peters, D-San Diego. "That's what's really helpful."

The $300 million in the trade bill, along with previous, lesser amounts obtained, have not come easily. Some funding was zeroed out of budgets by Trump administration officials. According to a Feinstein release last year, the Trump administration tried to eliminate the Environmental Protection Agency's Border Water Infrastructure Program.

There's confidence the Biden administration will have a different attitude.

Further, legislation by San Diego-area Democratic Reps. Mike Levin, Juan Vargas and Peters would make the EPA the lead agency to coordinate all federal, state and local projects to address border pollution. That's a bureaucratic but not insignificant move given the involvement of so many agencies.

That could put Peters in a stronger role. He sits on the House Energy and Commerce Committee's environment and climate change subcommittee, which has oversight of emergency environmental responses and the EPA.

Dedina said he has been frustrated by the pace of the response to the border pollution by the U.S. government, but especially by Mexican officials.

"Mexico has been backsliding," he said. "Things are getting a lot worse when they were supposed to get better."

Baja officials say they're moving ahead on the water recycling plant and upgrading the sewage system, according to Fry and Smith.

David Gibson, the executive officer of the San Diego Regional Water Quality Control Board, said information from Mexico on spills and other problems is not readily available.

"It's really hard to develop a culture of trust when you don't have day-to-day information," he told the Union-Tribune reporters.

On Friday, Feb. 26, the EPA plans to hold a virtual meeting to update the public on projects "to support a comprehensive solution" to cross-border pollution.

The U.S. funding should go a long way toward containing the spills and reducing beach closures, though officials have made clear that even if all goes according to plan, they anticipate sewage flows will still reach the coast during the heaviest rains.

For a lasting comprehensive solution, however, Tijuana will have to make significant improvements. Even with that, there still may be an untold number of homes not hooked up to the sewage system.

In the early 1990s, a border diversion system that included an international treatment plant was built and lived up to its promise, but only for a while.

Some are concerned that could be the fate of the new, expanded system, which may begin construction next year.

"The problem is, what is being proposed is a last-ditch defense," said Brian Bilbray, former Imperial Beach mayor, county supervisor and member of Congress.

The environmental problem will never be solved "unless you get to the source," added Bilbray, who in 1980 famously commandeered a skip loader and built a temporary dam to stop the sewage from going into the ocean. He agreed that water reuse in Mexico is the key to a sustainable solution.

Regardless, the current progress has many officials expressing optimism — though the modifier "cautious" is often attached.

Lakewood facing quarter-of-a-billion-dollar plan to update city's 100-year-old sewer system
https://www.cleveland.com/community/2021/02/lakewood-facing-quarter-of-a-billion-dollar-plan-to-update-citys-100-year-old-sewer-system.html
By John Benson, special to cleveland.com
19 Feb 2021

LAKEWOOD, Ohio -- Belying Lakewood's historic charm is its failing 100-year-old sewer system that over the next half-century will require a monumental investment by residents to meet Environmental Protection Agency (EPA) standards.

In addition to the $60 million Lakewood has spent over the last decade to improve its sewer and wastewater system, which has increased the percentage of collected and treated water from 79 percent to its current level of 85 percent, the city is facing an estimated cost of $250 million to complete the entire project.

On Tuesday night, Lakewood Mayor Meghan George and hired attorney Louis McMahon, who is assisting Lakewood in the matter, updated city council on the city's multi-phase integrated wet weather improvement plan.

"Council voted in 2018 to raise water and sewer rates by 10 percent in each of the following five years," George said. "As part of our due diligence for these regulator negotiations, we're exploring ways to equitably and affordably support the tens of millions of dollars in new sewer infrastructure our regulators are mandating."

At the council meeting, George said the city is evaluating different equitable rate structures that go beyond the existing water usage. This includes potentially an impervious area charge for commercial and residential landowners.

"The focus here with the EPA is the wet weather rain events and making sure that we don't overflow into the waterways," George said. "What we're considering are smaller, incremental changes that can be applied now with the benefit of time compared to waiting with the result being higher, long-term rates."

The mayor said with council's approval residents could be paying an impervious area charge as soon as this year.

In the meantime, Lakewood continues to work with US and Ohio EPA regulators on the implementation of its multi-phase integrated wet weather improvement plan.

The Phase 1 $25 million high-rate treatment facility -- preventing overflow going untreated into Lake Erie -- should go online later this year.

The current EPA negotiation actually represents the second phase of the city's integrated wet weather improvement plan, which also includes the future installation of a 6-million-gallon storage facility at the former Cove Church to capture water flow from entering into the Rocky River.

Lakewood is also waiting to hear back from the EPA on its Clean Water Act Compliance Report. The 220-page document outlines the city's 15-year, $75 million plan to address water polluting the watershed during major storm events where the city's infrastructure is overwhelmed.

The city's extensive report acts as a negotiation between the community and the EPA's Clean Water Act, which requires communities to identify, control and either permit or eliminate stormwater.

"Maintaining the initiative in these discussions is the only way we can continue charting our own course forward instead of having regulators dictate to us a list of projects and a timeline with no consideration of affordability or disruption," George said.

"There is no interpretation here -- Lakewood's sewer system needs to be updated, and we've fallen behind what many other communities in the region are doing. As I said to council on Tuesday, making these investments and addressing these problems now will spread this burden over time rather than being rushed by regulators later."

Officials call for Redwood City's salt pond protections
https://www.smdailyjournal.com/news/local/officials-call-for-redwood-city-s-salt-pond-protections/article_e15ceefa-726e-11eb-9ab0-cbff5cac8d39.html
By Sierra Lopez Daily Journal staff
19 Feb 2021

Change in presidential administration prompts new effort to save wetlands

Bay Area political leaders and organizations have come together to encourage the new Biden administration to protect Redwood City's salt ponds from future development by withdrawing a Trump era appeal of a federal district court ruling deeming the wetlands federally protected.

"This is a great indication there's strong political support at all levels for the EPA to withdraw Trump's appeal," said David Lewis, executive director of the environmental nonprofit Save the Bay.

Nearly 60 political officials and organizations signed onto two separate letters both directed to the Biden administration on Tuesday, calling for the end of a legal battle over the salt pond, owned by Cargill, Inc.

"The Trump administration's actions threaten the health and stability of our ecosystems and water resources," read the letter signed by 10 representatives. "We urge you to uphold federal environmental laws and protect clean water and wetlands by withdrawing the appeal and implementing the court's order to conduct a legally sound jurisdictional determination."

On Oct. 5, Judge William Alsup, with the U.S. District Court for the Northern District of California, ruled the 1,400 acres of salt ponds owned by Cargill Inc. fell under the protection of the federal Clean Water Act, a decades-old legislation intended to protect and prevent pollution in U.S. waters. In the decision, Alsup states that the land is protected due to being wet, "have important connections to the Bay," and have the potential to become inundated if levees were not in place.

The decision overturned a determination made in 2019 by the Environmental Protection Agency under the Trump administration, which claimed the salt ponds were not actually "waters of the United States," but "fast lands" exempt from Clean Water Act protections. The Trump administration's determination on the salt ponds was in response to a request by Cargill, Inc. and its developer partner DMB Pacific Ventures.

DMB submitted and then withdrew a proposal to build 12,000 homes on the salt ponds in 2012, but continued to engage the community about future opportunities for the site. That effort was dubbed Reimagine Saltworks.

Regardless of whether the EPA decides to withdraw its appeal, DMB and Cargill, Inc. intend on pursuing its appeal filed alongside federal action in December, said a statement from David Smith, consulting counsel for DMB Pacific Ventures representing Cargill, Inc.

"We continue to disagree with the District Court's ruling on critical facts, application of court precedent and lack of deference to the expertise of two presidential administrations, including the Obama Army Corps of Engineers, that concluded the site is not subject to the Clean Water Act," read the statement. "With that in mind, we do not intend to withdraw our Notice of Appeal."

Eric Buescher, an attorney with Cotchett, Pitre and McCarthy representing multiple organizations seeking to overturn the 2019 EPA determination, said the lawsuit was filed against the EPA, not Cargill, and it's unclear how the courts will treat DMB's appeal as interveners if the federal government withdraws.

It's likely the administration could also ask for an extension on the brief due date of March 12, said Buescher, noting extensions have been requested for other federal clean water cases with briefs due in February and March.

"We feel pretty strongly about this one and feel Judge Alsup got it right," said Buescher. "We expect and hope that would be affirmed by the Ninth Circuit if the appeal is pursued and if it's not pursued that's a win as well."

U.S. Rep. Anna Eshoo, D-Palo Alto, signed her name to one of two letters and lambasted the Trump administration for appealing the case in an email statement. Supporting Alsup's ruling, she echoed sentiments shared in the letters calling for the appeal to be dropped and the lands to be restored.

"The Biden administration should drop this unnecessary appeal and allow the area to be restored to wetlands and protect our region from sea level rise," said Eshoo.

Similarly, newly elected state Sen. Josh Becker, D-San Mateo, raised the importance of protecting the Bay in danger of sea level rise. Becker said dropping the appeal would be a "no-brainer" in terms of reversing the "hijacked" process by the Trump administration.

"Withdrawing the EPA's appeal of the judge's ruling is a simple solution to a decision by the previous administration, which ignored science, law and the findings of solid research," said Becker, sharing confidence the appeal will be withdrawn.

Supervisor Dave Pine has been an outspoken advocate for the salt ponds being restored to marshland. Calling the Trump administration appeal a "waste of time and resources" he said he would be surprised if the EPA moved forward with court proceedings.

Highlighting public sentiments, Pine said community support has shifted away from developing on the salt ponds that sit between restoration efforts to the north and south of the site.

"Ultimately, Cargill needs to change direction and sign away the site to be placed in the public's hands," said Pine. "Recent district court opinion affects [future development plans] for Cargill and sends a message that developing that site will be extraordinarily difficult."

sierra@smdailyjournal.com

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/24/2021 12:06:18 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 24 -- E&E Daily is ready

E&E Daily -- Congress. Legislation. Politics.

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E&E DAILY

AN E&E NEWS PUBLICATION

E&E DAILY — Wed., February 24, 2021

READ FULL EDITION

1. INTERIOR:
Deb Haaland's last chance to win over Republicans

The Senate Energy and Natural Resources Committee will question New Mexico Democratic Rep. Deb Haaland again this morning in her bid for Interior secretary. It may be her last chance to sway GOP lawmakers, some of whom were disappointed with her performance yesterday.

TOP STORIES

2. NATURAL RESOURCES:
House lands package faces volley of GOP amendments

3. INFRASTRUCTURE:
Democrats to seek 'ambitious' water projects spending

4. ENERGY POLICY:
Republicans look to cool tensions after attacking renewables

ON THE HILL

5. CLIMATE:
Romney: 'I'm very open to a carbon tax'

6. CLIMATE:
Fed chair tells panel no rush on disclosure rules

7. HOUSE:
Graves to continue leading climate panel Republicans

8. NOMINATIONS:
Senate to vote on Granholm today, Raimondo next week

IN COMMITTEE

9. SECURITY:
Lawmakers grill tech executives over massive hack

10. CLIMATE:
Lawmakers float bills on highway emissions, EVs

11. FEDERAL AGENCIES:
Democrats introduce bill to prevent mass relocations

POLITICS

12. INFLUENCE:
Former Hill aides jump to lobby firms

13. ADVOCACY:
Coalition pushes outdoor, recreation priorities

UPCOMING HEARINGS AND MARKUPS

14. CALENDAR:
Activity for February 22 - February 28, 2021

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Sent: 2/19/2021 10:00:04 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition 2/19/2021

Water

City Works to Ensure Safe Water, Cleared Streets
Capito urges publication of EPA PFAS regulation for nations water

Waste Cleanup

$1.9-million settlement reached for EPA violations in Wyoming
Wisconsin Utility Prepares for $7.2 Million Gas Plant Cleanup
Buried cache found at Luther Forest in 2016 may have been from Navy

Agency

The Environmental Protection Agency Extends Nominations Deadline for the 2020 President's Environmental Student and Teacher Awards

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City Works to Ensure Safe Water, Cleared Streets

https://www.wnewsj.com/news/159661/city-works-to-ensure-safe-water-cleared-streets

WILMINGTON — Protection of the city's water took center stage at Thursday's Wilmington City Council meeting.

Council approved a resolution authorizing the hiring of outside counsel to represent the city in a national lawsuit case filed in a federal court in South Carolina. Public Works Chairperson Kelsey Swindler said this is in relation to Per- and Polyfluoroalkyl substances (PFAS) being found in the city's water supplies.

According to the U.S. Environmental Protection Agency (EPA) website, PFAS is "a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals. PFAS have been manufactured and used in a variety of industries around the globe, including in the United States since the 1940s."

PFAS can be found in localized drinking and associated with facilities such as wastewater and treatment plants.

The EPA website indicates people exposed to it for a long period of time could develop health issues, which vary depending on the chemical exposure. These could include increased cholesterol levels, effects on the immune system, effects on infant birth weights, cancer (for PFOA), and thyroid hormone disruption (for PFOS).

Lawsuits are due to the unnamed manufacturers of the chemicals because of concerns those manufacturers may have known the dangers of the chemicals longer than they conveyed.

"We're joining with many water systems across the country that are finding similar levels of chemicals in their own water, " said Swindler.

EPA recognition

Mayor John Stanforth praised Travis Luncan, the city's water protection coordinator, for the certificate of recognition he received from Ohio EPA Director Laurie Stevenson.

The certificate is for "efforts taken to protect the city's source of drinking water through completion of a drinking water source protection plan."

According to Stanforth, only about 10 of those certificates are given out annually from the EPA director.

"What a great feather in our cap," said Stanforth. "Great job, Travis."

Megan Marhelski, a geologist with the Ohio EPA who was described as "instrumental" in helping with the plan, congratulated the city for successfully completing its plan.

"A Source Water Protection Plan details the activities that public water systems, like Wilmington, will implement to protect the source of their drinking water to ensure that residents have safe, clean water to drink," said Marhelski.

According to her, out of the 120 public water systems in south-west Ohio, "only about 50% have completed a source water protection plan that has been endorsed by Ohio EPA."

She described Luncan as dedicated to protecting the city's drinking water source and praised his efforts in creating alliances with multiple organizations including the Ohio EPA, the Ohio Department of Natural Resources, Clinton County Port Authority, and Wilmington College.

"Travis is doing an amazing job bringing local, state, and federal agencies to assist in Wilmington's source water protection program," said Marhelski.

She also recognized Public Works Director Rick Schaeffer, the council, and Stanforth for "recognizing the importance of source water protection" and for creating the water protection coordinator position.

Clearing streets
Safety/Service Director Brian Shidaker reassured councilmembers and attendees that, in regards to snow removal, the city has a list of priorities. Shidaker said he wanted to share this with councilmembers so they can share it with constituents.

They first tackle the "hot spots" — locations where an "imminent risk of physical harm" can occur (intersections, bridge surfaces, hills and curbs). Second is the main thoroughfares such as South Street, Main Street, Rombach Avenue, and others which are cleared. Shidaker described them as the "most critical for our emergency vehicles' routing."

Secondary streets like some subdivisions, cul-de-sacs, and others are plowed after the main thoroughfares are passable.

Mayor John Stanforth told those in attendance the City of Wilmington had used over 2,000 tons of salt on roads in just the past week. This is in comparison to the previous winter season; Stanforth said the city used under 1,000 tons.

Stanforth assured attendees the salt supply remains in good shape by saying, "We have plenty of salt to salt our french fries."

Capito urges publication of EPA PFAS regulation for nation's water
https://riponadvance.com/stories/capito-urges-publication-of-epa-pfas-regulation-for-nations-water/

By Ripon Advance News Service | February 19, 2021

The Environmental Protection Agency's regulation of per- and polyfluoroalkyl substances (PFAS) should promptly be published in the Federal Register so that the EPA may resume development of a drinking water regulation, according to U.S. Sen. Shelley Moore Capito (R-WV).

"On January 20, 2021, you issued a memorandum titled 'Regulatory Freeze Pending Review,' which directs that any new or pending rules be immediately frozen from publication in the Federal Register until the Biden administration reviews and approves of them," Sen. Capito wrote in a Feb. 17 letter sent to White House Chief of Staff Ron Klain. "Caught — I hope unintentionally — in this review process are significant actions to address PFAS."

Sen. Capito, who is ranking member of the U.S. Senate Environment and Public Works Committee, noted that the EPA on Jan. 15 promulgated a National Primary Drinking Water Regulation under the Safe Drinking Water Act to regulate specific toxic chemicals in the nation's water, but it cannot go forward until it has been published in the Federal Register, according to Sen. Capito's letter.

"This scientifically based and publicly reviewed regulatory determination is a vital step necessary for EPA to regulate these chemicals in drinking water, and is focused entirely on the protection of public health," the senator wrote.

$1.9-million settlement reached for EPA violations in Wyoming

https://www.wyomingnews.com/wyomingbusinessreport/industry_news/energy_production/1-9-million-settlement-reached-for-epa-violations-in-wyoming/article_4be93040-72e1-11eb-8b81-6fd02de8f294.html

PINEDALE (WNE) – The U.S. Environmental Protection Agency announced on Feb. 10 it reached a Clean Water Act settlement with Fleur de Lis Energy and Fleur de Lis Operating, LCC in which the companies agreed to pay $1.9 million for alleged violations of the Clean Water Act through oil and gas facilities in two different Wyoming locations.

The settlement involved six separate discharges of crude oil and produced water from Fleur de Lis operated facilities into waters and their adjoining shorelines; inadequate spill prevention control and countermeasure plans for five facilities, inadequate facility response plans for three facilities and no facility response plans for one facility.

The EPA alleged Fleur de Lis oil and gas operations were responsible for spills of oil and produced water to surface waters in Wyoming between Oct. 5, 2016, through May 29, 2018.

That includes one spill in the Linch Complex Field in Johnson County and five spills in the Salt Creek Field in Natrona County.

Each of the spills impacted adjoining shoreline and/or caused a sheen on tributaries to Salt Creek, a tributary of the Powder River.

The two largest were reported to be 7,307 barrels (or 306,907 gallons) and 559 barrels (23,478 gallons).

In addition, EPA alleged that Fleur de Lis failed to prepare adequate, or any at all, facility response plans from April 2015 through December 2017 at four facilities.

"Companies that store oil must ensure they have adequate spill prevention and discharge response plans to protect public health and the environment," Suzanne Bohan, director of EPA Region 8's Enforcement and Compliance Assurance Division, said in a statement.

Wisconsin Utility Prepares For $7.2 Million Gas Plant Cleanup
https://news.bloomberglaw.com/environment-and-energy/wisconsin-utility-prepares-for-7-2-million-gas-plant-cleanup

Feb. 19, 2021, 11:48 AM

- EPA, utility propose remediation agreement
- Benezene, naphthalene pollute former plant property

Wisconsin Public Service Corp. has tentatively agreed to pay $7.2 million to clean up a former gas plant under the EPA's oversight in a proposed consent decree in federal district court.

Under the agreement, filed in the U.S. District Court for the Eastern District of Wisconsin Thursday, the electric and gas utility would carry out the Environmental Protection Agency's 2018 cleanup plan for the site and reimburse the agency for about $6,000 in past response costs.

The Manitowoc, Wis., site, about 40 miles south of Green Bay, includes a former manufactured gas plant operated by Wisconsin Public Service's predecessor in interest. The plant's byproducts and wastes, including coal tar and wastewater sludge, resulted in benzene, benzo(a)pyrene, and naphthalene contamination at the site, the proposed consent decree said.

The agency's cleanup plan includes stabilizing highly contaminated soil, managing roadways and pavement that bars direct contact with contaminants, and using controls to restrict future land use, according to the 2018 plan.

Wisconsin Public Service and the state environmental agency addressed contamination at the site for several years before the EPA took the lead. The area is mainly zoned business or commercial and industrial. Contaminated groundwater at the site isn't being used, the 2018 plan said.

The Manitowoc site's cleanup is following federal Superfund requirements but isn't part of the EPA's National Priorities List.

Wisconsin Public Service agreed in 2006 to investigate contaminants at six former manufactured gas plants across the state, which are similarly undergoing Superfund processes without being listed, according to the 2018 plan.

The consent decree will be open to public comment before it is finalized.

The case is U.S. v. Wisconsin Pub. Serv. Corp., E.D. Wis., No. 1:21-cv-211, 2/18/21

Buried cache found at Luther Forest in 2016 may have been from Navy
https://www.timesunion.com/business/article/Navy-shares-responsibility-for-buried-cache-found-15963434.php

Larry Rulison
Feb. 19, 2021Updated: Feb. 19, 2021 3:33 p.m.

MALTA — The U.S. Environmental Protection Agency believes the Navy may share responsibility for a large cache of metal drums and potential explosives found buried near the GlobalFoundries computer chip factory back in 2016.
The June 2016 discovery of the nearly 100 containers, including 34 suspicious stainless steel canisters, caused a minor stir at the factory, which is home to 3,000 workers.
Documents obtained this week by the Times Union reveal that the EPA spent $360,000 to unearth and dispose of the drums and canisters, which were suspected of containing hazardous and potentially explosive chemicals. That's because the discovery was located on a former government missile and space rocket testing site that dates back to the Cold War.
Now the EPA is trying to recover the costs of the 2016 cleanup operation from the government agencies and contractors that worked on the site decades ago — although the U.S. Navy appears to be the main suspect.
When the EPA first notified the public of the discovery of the buried containers back in 2016, it said it believed the 34 metal canisters were used to take "quality assurance samples" back in the days the missile testing site was operational.
Known as the Malta Rocket Fuel Area, the 165-acre site in the middle of what is known as Luther Forest was used by the federal government to take Nazi rocket technology seized by the Allies in World War II to launch the U.S. space program and new weapons systems used to deter the Soviet Union.
In 1987, the property was named to the EPA's list of polluted Superfund sites across the country that were targeted for cleanup.
General Electric Co. and other firms that ran the site for the Defense Department agreed to pay for and manage the cleanup, which paved the way for the creation of the Luther Forest Technology Campus on more than 1,000 acres located around the test site.
Others who agreed to shoulder the cleanup costs include Mechanical Technology, a little-known GE spinoff that is located in Albany, as well as NASA, the Army and the Air Force.
GlobalFoundries began building its Fab 8 factory at Luther Forest in 2009, and the computer chip maker has invested $15 billion since in several expansions and additions. A second factory could be built in the coming years, fueled ironically by hundreds of millions of dollars in new chip orders from the U.S. military.
Documents provided this week by the EPA to the Times Union show that the 34 metal canisters that were destroyed actually had U.S. Navy markings.
"The U.S. Navy was contacted about the cylinders at the time of the discovery but declined to assist with the investigation and disposal tasks," a Dec. 19, 2019 letter sent by the EPA to the Navy and others states. "Because the Navy cylinders had markings indicating the possible presence of explosive contents, the cylinders were destroyed on-site, with EPA oversight, by controlled detonation in a remote area."
Both GE and Mechanical Technology, which makes testing equipment used to calibrate airplane systems and other devices, told the Times Union they do not believe they had anything to do with the dumped containers and have informed the EPA as well.
GE says it is also working with the Navy on "ongoing monitoring activities" of any more buried containers.
The Navy did not immediately respond to a request for comment.
The Edison Tech Center in Schenectady notes that the Navy did extensive rocket testing at the Malta test site for Project Vanguard, which sent the first U.S. satellite into orbit in the late 1950s.

The Environmental Protection Agency Extends Nominations Deadline for the 2020 President's Environmental Student and Teacher Awards

http://thedailyripple.org/index.php/component/content/article/45-environment/737694-the-environmental-protection-agency-extends-nominations-deadline-for-the-2021-president%E2%80%99s-environmental-student-and-teacher-awards

02/19/2021
WASHINGTON (February 19, 2021) — Today, U.S. Environmental Protection Agency (EPA) announced that it's extending the nominations deadline for their Environmental Education Presidential awards program. EPAs Office of Environmental Education will now accept applications for the 2021 President's Environmental Youth Awards (PEYA) and Presidential Innovation Awards for Environmental Educators (PIAEE) through April 30, 2021.
"Investing in our nation's students and teachers by creating opportunities to engage in real world issues will help build the next generation of environmental leaders," **said Rosemary Enobakhare, Associate Administrator, Office of Public**

Engagement and Environmental Education. "Providing an extension will allow additional time for all students and teachers to submit applications for this invaluable awards program."

Since the establishment of the original Environmental Education Act of 1970, The President's Environmental Youth Award (PEYA) Program has recognized outstanding community-level environmental projects by K-12 youth for over 50 years. Today, as part of the National Environmental Education Act of 1990, PEYA continues to promote awareness of natural resources and encourages positive community involvement.

PIAEE recognizes outstanding K-12 grade educators who integrate environmental, place-based experiential learning into their classrooms.

Additional Information on the Awards

EPA is seeking PEYA and PIAEE award applications for projects on a variety of environmental topics, including (but not limited to), projects on:

- Climate Change
- Making a visible difference in Environmental Justice communities
- Reducing food waste and loss and excess food recovery efforts
- Reducing contributions to ocean and marine litter
- Solutions in recycling
- Using science, technology, engineering and math (STEM) to teach environmental education
- Environmental sustainability
- Sustainable agricultural practices
- Healthy school environments

The President's Environmental Youth Awards (PEYA) recognizes outstanding environmental stewardship projects from grades K-12 by promoting environmental awareness and encouraging community involvement. EPA will select up to two winners in each of EPA's 10 Regions – one regional winner for grades K-5, and one regional winner for grades 6-12. The winning projects will be highlighted on EPA's website. All student projects must be sponsored by at least one adult over the age of 21. And, if the sponsor is not a teacher, the project must have a teacher as a co-sponsor. The application and eligibility information are available on EPA's PEYA page[1].
The Presidential Innovation Award for Environmental Educators (PIAEE) recognizes outstanding K-12 teachers who employ innovative approaches to environmental education. Up to two teachers from each of EPA's 10 regions, from different states, will be selected to receive this award. Teachers will receive a Presidential plaque and an award of up to $2,500 cash to be used to further professional development in environmental education. Winning teachers' local education agencies will also receive awards of up to $2,500 cash to fund environmental educational activities and programs. Next years' winners will be highlighted on EPA's website.
The application and eligibility information are available on EPA's PIAEE page[2].
Applications for both awards programs are due no later than April 30, 2021.
For more information on the youth awards (PEYA), please contact: PEYA@epa.gov[3].
For more information on the teacher awards (PIAEE), please contact: PIAEE@epa.gov[4].
EPA's Office of Environmental Education (OEE) works to expand the public's environmental knowledge and enables people to effectively solve environmental problems. OEE develops training programs, provides education materials, supports environmental education publications, holds seminars and events, and administers environmental education grants and awards, please contact: education@epa.gov[5].

Message

From: E&E News [ealerts@eenews.net]
Sent: 2/11/2021 12:08:36 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 11 -- E&E Daily is ready

E&E Daily -- Congress. Legislation. Politics.

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E&E DAILY — Thu., February 11, 2021

READ FULL EDITION

1. POLITICS:
Keystone XL fight flares in COVID-19 bills

Lawmakers yesterday debated amendments related to the Keystone XL oil pipeline during deliberations on COVID-19 relief legislation. Committee markups continue today.

TOP STORIES

2. NOMINATIONS:
Tanden takes bipartisan heat at confirmation hearing

3. Q&A:
Calif. progressive plans Dems' environmental oversight

POLITICS

4. ADVOCACY:
Everglades boosters launch climate-focused campaign

5. CAMPAIGN 2022:
Republicans unveil top House Democratic targets

6. PEOPLE:
Former Hill aide, energy advocate arrested

ON THE HILL

7. TAX POLICY:
Coalition seeks Capitol Hill help for 30M solar homes

8. FORESTS:
Mont. lawmakers urge Biden to keep Trump species rule

IN COMMITTEE

9. SENATE:

Barrasso announces roster of committee hires

10. SECURITY:

Panel grills cyber experts in water hack's wake

UPCOMING HEARINGS AND MARKUPS

11. CALENDAR:

Activity for February 8 - February 14, 2021

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Sent: 2/8/2021 6:45:03 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 8 -- Greenwire is ready

Greenwire -- The Leader in Energy and Environment News

Read today's Greenwire on the web

GREENWIRE

AN E&E NEWS PUBLICATION

GREENWIRE — Mon., February 8, 2021

READ FULL EDITION

1. PUBLIC HEALTH:

What can parents do about toxic baby food? Not much

A House report finding that top baby food products contain heavy metals has sparked panic among parents — and a lawsuit. But experts want parents to keep calm.

TOP STORIES

2. WILDLIFE:

Migratory bird protection fight takes off, again

3. EPA:

Ex-Hill aide now in hot seat on TSCA, forever chemicals

4. BRISTOL BAY:

Pebble, ex-CEO served with federal grand jury subpoenas

POLITICS

5. OBITUARY:

Statesman, climate activist George Shultz dies

6. TRANSITION:

Meet EPA's top new air office appointees from enviro groups

CONGRESS

7. OBITUARY:

Texas GOP rep. becomes first lawmaker to die of COVID-19

8. SENATE:

Top appropriator Richard Shelby announces retirement

9. PEOPLE:
Former Trump aide joins House climate panel

10. CAMPAIGN 2022:
Pa. Democrat announces run for Toomey seat

NATURAL RESOURCES

11. AGRICULTURE:
Chemical in Australian limes could curb deadly citrus disease

12. ENDANGERED SPECIES:
Phoenix Zoo sends wolves to Texas to boost genetic health

13. WILDLIFE:
Salmonella outbreak is killing Western finches

LAW

14. WATER POLLUTION:
Judge faults Trump hotel for lapsed environmental permit

15. ENDANGERED SPECIES:
Greens go after Trump-era Army Corps permitting program

16. NATIONAL PARKS:
Ore. man banned from Crater Lake after poaching elk

TRANSPORTATION

17. ELECTRIC VEHICLES:
Miami mayor digs Elon Musk's tunnel pitch to ease traffic

STATES

18. UTAH:
Avalanche kills 4 local backcountry skiers

19. NEW MEXICO:
Structure fire in village spreads into national forest

20. OKLAHOMA:
Small quakes possibly tied to water injection rattle north

21. MICHIGAN:
Waste-to-energy incinerator shutting down

INTERNATIONAL

22. INDIA:
Rescuers dig for 37 plant workers trapped in glacier flood

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From: E&E News [ealerts@eenews.net]
Sent: 2/12/2021 6:51:04 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 12 -- Greenwire is ready

Greenwire -- The Leader in Energy and Environment News

Read today's Greenwire on the web

GREENWIRE

AN E&E NEWS PUBLICATION

GREENWIRE — Fri., February 12, 2021

READ FULL EDITION

1. PUBLIC LANDS:

Biden's conservation push could trigger a state backlash

While proponents of dismantling the federal estate have largely halted their efforts in recent years — satisfied by the Trump administration's rollback of protections on public lands — a bill before Montana state lawmakers this week hints at a movement that could be rekindling.

TOP STORIES

2. FEDERAL WORKFORCE:

Will Biden's scientific integrity memo help whistleblowers?

3. LAW:

D.C. Circuit 'legend' creates major opening for Biden pick

4. OFF TOPIC:

Hilary Tompkins on being the top Native woman at Interior

POLITICS

5. ADVOCACY:

Instagram bans Waterkeeper co-founder Robert F. Kennedy Jr.

6. INTERIOR:

Biden admin, tribes to discuss climate change, racial justice

CONGRESS

7. SENATE:

Leaders release new energy, environment appropriators

NATURAL RESOURCES

8. PUBLIC LANDS:
Impeachment fuels drive to rename Donald J. Trump State Park

9. SCIENCE:
Wallet lost at Antarctic station returned after 53 years

10. PUBLIC LANDS:
McConnell announces Ky. wildlife refuge adds 437 acres

11. ENDANGERED SPECIES:
Pandemic cancels whooping crane count for first time since 1950

LAW

12. ENDANGERED SPECIES:
Judge axes key Trump revision to Obama-era sage grouse regs

13. WILDLIFE:
'Joe Exotic' appeal for reduced sentence before panel

14. RECYCLING:
Contractor sentenced in San Francisco corruption scandal

15. FISHERIES:
Wis. biologist charged with lying about caviar scheme

ENERGY

16. OIL AND GAS:
Interior data: Washington not to blame for slow permits

17. OIL AND GAS:
Live near a refinery? You might see extra snow

18. CHEMICALS:
EPA fines Hawaii oil refinery for safety, waste violations

19. CALIFORNIA:
Regulators: Utilities to buy energy to prevent blackouts

CLIMATE CHANGE

20. EPA:
GHG emissions fell in 2019, but U.S. goals remain elusive

STATES

21. NEW YORK:
Environmental rights amendment on state ballot

22. NEW MEXICO:
With wildfire risk up, House supports controlled burns

23. WISCONSIN:
Judge orders start to wolf hunt this month

24. OREGON:

Most residents who applied for disaster aid denied

INTERNATIONAL

25. ENGLAND:

Court: Nigerian farmers can sue Shell in U.K. over pollution

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Greenwire is written and produced by E&E News, which is staffed by a dedicated reporting team within the POLITICO newsroom. It's the one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day. Greenwire covers a complete spectrum of issues, from energy policy to Clean Air Act litigation to public lands management. Greenwire publishes daily by 1:30 p.m.

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Message

From: E&E News [ealerts@eenews.net]
Sent: 2/5/2021 12:21:38 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 5 -- Climatewire is ready

Climatewire -- Policy. Science. Business.

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CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Fri., February 5, 2021

READ FULL EDITION

1. SCIENCE:
This man dives into hurricane bottoms with a Coyote

In 2004, a meteorologist accepted one of the most difficult challenges of weather-related science: exploring the churning bottom of hurricanes before they strike land.

TOP STORIES

2. SENATE:
Manchin warns Democrats against pursuing a carbon tax

3. CLIMATE IMPACTS:
'Dangerous lake' teetering above city grows with warming

CLIMATE IMPACTS

4. SCIENCE:
Study connects bats, climate change and COVID-19

5. EXTREME WEATHER:
Disaster insurance for your town? Consider it, experts say

BUSINESS

6. FINANCE:
JPMorgan expects sustainability-linked bond boom

7. ENVIRONMENTAL JUSTICE:
Pledge drive urges funding racially diverse climate efforts

8. AGRICULTURE:
Land O'Lakes set for $2M carbon credit sale to Microsoft

OIL & GAS

9. ENERGY TRANSITIONS:

Oil giant's Arctic plans complicate emissions pledge

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Message

From: E&E News [ealerts@eenews.net]
Sent: 2/11/2021 11:57:49 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 11 -- Climatewire is ready

Climatewire -- Policy. Science. Business.

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CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLIMATEWIRE — Thu., February 11, 2021

READ FULL EDITION

1. WHITE HOUSE:
Gina McCarthy: Expect more climate executive orders

President Biden is likely to issue more executive orders on global warming, said White House climate adviser Gina McCarthy in an interview with E&E News.

TOP STORIES

2. LAW:
***Juliana* lawyers eye 'high-risk' Supreme Court gambit**

3. PEOPLE:
FEMA chief of staff tweets for climate justice

CLIMATE IMPACTS

4. WHITE HOUSE:
How could Biden help climate migrants? 'There's no one way'

5. FINANCE:
Green investments soared in turbulent 2020

6. PANDEMIC:
COVID-19 aid should be contingent on climate action — report

IN THE STATES

7. MASSACHUSETTS:
Ocean acidity threatens regional shellfish industry

8. ILLINOIS:
By 2050, state would use only renewable energy under bill

BUSINESS

9. INVESTING:

Brookfield pursues $7.5B fund devoted to 'net-zero' shift

INTERNATIONAL

10. CHINA:

Climate data shows 2020 was 8th hottest year since 1951

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From: Labbe, Ken [Labbe.Ken@epa.gov]
Sent: 2/10/2021 4:47:41 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Media Clips, February 10, 2021 (morning edition)

Daily Media Clips, February 10, 2021 (morning edition)

Chemicals
EWG: EWG Calls on EPA To Ban Use of Brain-Damaging Pesticide
EJ
Axios: House Democrats' COVID-19 plan eyes environmental justice funds
Enforcement
JD SUPRA: Biden EPA Continues Aggressive Enforcement Against Disinfectant Products and UV Devices Claiming to Kill Coronavirus
Insurance Journal: Environmental Settlement of $212K Reached with Washington Chemical Company
The State: Amazon ordered to stop selling illegal pesticides online
Policy
JD SUPRA: EPA Encourages Voluntary Self-Disclosure of Environmental Violations with Release of Updated Guidance

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EWG: EWG Calls on EPA To Ban Use of Brain-Damaging Pesticide

WASHINGTON – The neurotoxic pesticide chlorpyrifos should be banned for use immediately by the Environmental Protection Agency, the Environmental Working Group wrote in a public comment letter to the agency this week. The EPA should make it illegal for any traces of chlorpyrifos to be present on produce or other foods.

Studies have shown that even in small amounts, exposure to chlorpyrifos during pregnancy and early life harms the developing brain, causing life-long damage, such as reduced IQ and delayed development of motor and sensory functions as well as social and behavioral dysfunction.

Millions of pounds of chlorpyrifos have been sprayed on U.S. crops every year. As a result, chlorpyrifos has been found on popular children's food, frozen strawberries, as well as other produce, and even milk. It can also contaminate drinking water.

In 2016, an EPA risk assessment concluded that dietary exposures to chlorpyrifos for children one and two years old could be more than 140 times the suggested safe levels.

"The numbers are alarming, especially because even tiny amounts of this pesticide can cause irreparable neurological damage to children," said Alexis Temkin, Ph.D., an EWG toxicologist.

Farmworkers and their families and local communities, which are often communities of color, bear an even greater burden of exposure to chlorpyrifos and other pesticides.

A chlorpyrifos ban was first proposed by the Obama administration in 2015, but has been continuously thwarted by pesticide industry executives and the EPA under ex-President Trump.

In 2017, then-EPA Administrator Scott Pruitt made an eleventh-hour decision to abort the ban, and his successor, Andrew Wheeler, continued to fight to keep it legal and allowed for use by conventional agriculture operations. In December 2020, the EPA proposed allowing its continued use.

At the same time, the European Union determined there is no safe level of exposure for the pesticide and banned its sale.

"The EPA must take immediate action to ban this highly toxic pesticide," said Olga Naidenko, Ph.D., vice president of science investigations for EWG. "The U.S. needs to catch up to the EU in protecting children from chlorpyrifos."

California banned the sale of chlorpyrifos last year. It has also been banned in Hawai'i, and New York will prohibit all uses in 2021. Under the Biden administration, it's time for the EPA to follow the states, and the advice of its own scientists, and ban the sale and use of chlorpyrifos.

Axios: House Democrats' COVID-19 plan eyes environmental justice funds

House Democrats' COVID-19 relief package unveiled last night includes $100 million for EPA to address "health outcome disparities from pollution and the COVID-19 pandemic," per House Energy and Commerce Committee bill text.

How it works: The proposed funding would provide $50 million for grants, contracts and other activities, and another $50 million for EPA-funded air quality monitoring and related efforts, panel Democrats said.

- And it also provides $4.5 billion to the federal government's Low-Income Home Energy Assistance Program.

Why it matters: Democrats plan to move the wider COVID-19 relief package under the budget reconciliation process, and those measures are immune from Senate filibusters.

- So if Senate Democrats back these provisions in their reconciliation package, they have a clear path to enactment.

What's next: The House Energy and Commerce Committee will mark up the package tomorrow.

JD SUPRA: Biden EPA Continues Aggressive Enforcement Against Disinfectant Products and UV Devices Claiming to Kill Coronavirus

One of the few areas of EPA policy continuity between the Biden and Trump eras is the aggressive enforcement attention being paid to products that claim to fight the SARS-CoV-2 *coronavirus*.

While EPA has long prioritized enforcement of the rules governing antimicrobial products (disinfectants and the like), the current pandemic has elevated that focus substantially, particularly against products that claim or suggest effectiveness in fighting *coronavirus* and other microbes. Some of the more high-profile actions over the last year have targeted on-line sales of products (often imports) that are not registered with EPA to make antimicrobial claims, as required by the Federal Insecticide Fungicide and Rodenticide Act (FIFRA).

In a January 2021 update to a COVID-related compliance advisory first issued in May 2020, EPA reiterated its aggressive enforcement stance, with an emphasis on internet product sales:

EPA is receiving a steady stream of tips/complaints concerning potentially false or misleading claims, including efficacy claims, associated with pesticides and devices. These tips and complaints are being actively reviewed and efforts are being made to identify violative products. EPA intends to pursue enforcement against products making false and misleading claims regarding their efficacy against the coronavirus. ***EPA is particularly concerned with pesticide and pesticide device products sold online on e-commerce platforms that are fraudulent, counterfeit, and/or otherwise ineffective****. EPA is also coordinating with the U.S. Department of Justice, U.S. Customs and Border Protection, and other federal partners to bring the full force of the law against those selling or otherwise distributing violative products.*

The updated EPA advisory also highlights agency concerns with products improperly claiming long-lasting anti-viral effects (so-called "residual claims" that a product "provides an ongoing antimicrobial effect beyond the initial time of application, ranging from days to weeks to months"). Such claims only are allowed if approved by EPA and "supported by acceptable studies demonstrating satisfactory residual efficacy," consistent with agency guidance issued in October 2020.

EPA's updated advisory also expands on, and somewhat shifts, the agency's discussion of pesticide "devices" (*e.g.*, UV lights, ozone generators, and other instruments that use physical or mechanical means to control pests, including viruses and other germs) that claim to kill the *coronavirus*. Unlike chemical pesticides, devices are not required to be registered by EPA and, therefore, are not scrutinized by the agency to ensure they are safe to use or work as intended. [Note that devices must meet other EPA requirements, including being labeled with an "EPA Establishment Number" to identify the facility at which the device was produced, and not being marketed with "false or misleading" claims.] While EPA does not review efficacy data for these products, manufacturers must have on file adequate substantiation for the claims they make. Interestingly, the May 2020 advisory noted that "devices may not be able to make claims against *coronavirus* where devices have not been tested for efficacy or safety for use against the virus causing COVID-19 or harder-to-kill viruses." This language has been replaced in the January 2021 advisory with a more general reminder that

[M]aking false or misleading labeling claims about the safety or efficacy of a pesticidal devices is prohibited and could result in the issuance of a Stop Sale, Use, or Removal Order and penalties ....

In addition, on the litigation front, EPA continues to fight two novel challenges to the scope of the agency's enforcement authority. In the first case (*Zuru LLC v. EPA)*, filed in September, the company is challenging EPA's determination that its cleaning wipes are an unregistered pesticide, and blocking its importation, because the wipes contain an active ingredient found in a number of other EPA-registered disinfectants; of website statements made by third party resellers that the wipes are "disinfectants" and "kill germs"; and the product name "'Bactive' implies bacterial fighting properties."

The second case, *Tzumi Innovations v. EPA,* filed in December, similarly involves objections to EPA's designation of the company's hand wipes (typically for use on the human body and an FDA-regulated product) as an unregistered pesticide and a threatened Stop Sale, Use, Or Removal Order (SSURO). EPA filed a new brief in that case on February 3 asserting that the matter is not ripe for review and, substantively, that the wipes are properly considered pesticides because they are being marketed for use on surfaces.

Both challenges provide a reminder of the extensive scope of EPA's FIFRA authority, including over products that do not explicitly make antimicrobial claims, but imply such effectiveness through other statements or based on the presence of certain active ingredients. For a more detailed discussion, see my prior blog post.

A copy of EPA's updated COVID Compliance Advisory "What You Need to Know Regarding Products Making Claims to Kill the *Coronavirus* Causing COVID-19" is available here.

Insurance Journal: Environmental Settlement of $212K Reached with Washington Chemical Company

The U.S. Environmental Protection Agency has reached a settlement with Emerald Kalama Chemical after inspectors say they found hazardous waste storage and handling violations it its Kalama, Wash., facility.

The chemical company has agreed modify its practice and pay a $121,478 penalty as part of the agreement, the EPA said in a statement.

Inspectors found multiple violations of the Resource Conservation and Recovery Act and Washington state's EPA-approved Dangerous Waste program, the EPA said.

The violations were related to the storage and handling of wastes containing volatile organic compounds and the emissions standards applicable to strange containers and equipment.

"Failure to manage these wastes appropriately can lead to emissions of VOCs and hazardous air pollutants to nearby communities," the EPA said.

The State: Amazon ordered to stop selling illegal pesticides online

Amazon.com, Inc. has been ordered for the third time in three years to stop selling illegal pesticides on its online marketplace, including some products claiming to kill viruses, federal officials said.

The Environmental Protection Agency announced Tuesday that its Seattle office issued a "stop-sale" order on Jan. 7 requiring Amazon to take down listings for dozen of products the agency said posed a health risk to people and pets exposed to the products, The Seattle Times reported.

The commerce giant said in a statement that it put "processes in place" to "proactively block" unregistered pesticides and products making inaccurate claims about COVID-19 before they are listed for sale.

"We have no idea what those products are made of," Chad Schulze, an EPA enforcement officer in Seattle, said Tuesday. "And when you have people purchasing a product that says it will kill or control viruses in their personal space but it does not, that's a huge risk as well."

The EPA previously claimed Amazon committed about 4,000 violations of the Federal Insecticide, Fungicide and Rodenticide Act between 2013 and 2018 by allowing third-party vendors to sell and distribute products not evaluated by the agency.

Amazon settled those charges for $1.2 million and committed to more closely monitoring and removing illegal pesticides from its marketplace. The company also created an online learning module on federal regulations and required all vendors to pass a quiz.

Schulze said that Amazon has had fewer illegal pesticides on its platform since then, but that it is "not perfect."

JD SUPRA: EPA Encourages Voluntary Self-Disclosure of Environmental Violations with Release of Updated Guidance

On February 5, 2021, EPA posted on its website updated Frequently Asked Questions (FAQs) in connection with its Audit Policy Program. EPA's Audit Policy, first created in 1995, provides important incentives for regulated entities to voluntarily discover and correct violations of federal environmental laws and regulations. To encourage the voluntary discovery, disclosure, correction, and prevention of environmental violations, the Audit Policy offers companies a 100 percent reduction of gravity-based civil penalties, as well as a recommendation for no criminal prosecution, when all of EPA's eligibility conditions are met. In many instances, voluntary self-disclosures submitted under the Audit Policy Program framework achieve full mitigation of penalties that might otherwise be assessed at many millions of dollars.

The new FAQs issued at the beginning of the Biden Administration show that EPA will continue to support the Audit Policy and encourage the proactive, voluntary self-disclosure and correction of violations. These FAQs expressly supersede previous EPA interpretative guidance of the Audit Policy. The new FAQs incorporate earlier interpretations that remain relevant and offer additional clarifications based on the Agency's experience with the Audit Policy Program over the last several decades. According to EPA, the updated guidance was specifically developed as part of its most recent effort, announced in May 2018, to encourage continued and expanded use of the Audit Policy's self-disclosure tools. At that time, EPA noted that it had seen more than a 75 percent increase in the number of annual self-disclosures since the introduction of the online "eDisclosure" program in 2015, and committed itself to clarifying several features of its self-disclosure policies in response to some "common misconceptions" in the regulated community.

Eligibility for penalty mitigation under the Audit Policy is based on satisfying nine specific conditions, including systematic and voluntary discovery of the violation, and prompt disclosure and corrective action. Companies that use the Audit Policy are also required to certify compliance, either through the eDisclosure portal or a new owner audit agreement, where available. The FAQs address each of these conditions, and also include specific sections focused on new owner audits (the Audit Policy encourages new facility owners to address environmental noncompliance that began prior to acquisition), utilization of the eDisclosure portal, and small business compliance.

Repeat violations are not eligible for Audit Policy application; neither are violations that result in serious actual harm or that may have presented an imminent and substantial endangerment. In our experience, very few violations disclosed and corrected under EPA's Audit Policy are rejected for either of these reasons, as the agency emphasized in publishing the new FAQs.

In particular, the updated FAQs note that, between 1995 and 2020, EPA found that an entity had not satisfied the "no repeat violations" condition due to a "corporate pattern" in less than one percent of all cases. EPA reaffirmed in the updated FAQs that its review of voluntary disclosures is primarily focused on "significant concerns such as criminal conduct and potential imminent hazards."

The FAQs also note another important program Audit Policy metric: that of the nearly 28,000 facilities disclosing noncompliance with federal environmental laws to EPA between 1995 and 2020, EPA denied Audit Policy Program penalty mitigation based on "serious actual harm" or "imminent and substantial endangerment" less than a dozen times. According to EPA, one of those instances involved a release that required community evacuation of the surrounding area, while another involved the death of an employee.

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Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 2/17/2021 8:12:16 PM
To: Mercado Violand, Fernando [MercadoViland.Fernando@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
Subject: OAR Cabinet Report Entries

Please find below OAR's cabinet report entries for this week. Please note the timing of the 3rd action (statement on *HollyFrontier*) is still in flux. Recommend checking with Dan regarding the highlighted language below. Please feel free to contact me with any questions. Thank you.

CLIMATE:

Ex. 5 Deliberative Process (DP)

SIGNIFICANT EXECUTIVE ORDER (EO) & AGENCY ACTIVITY:

Ex. 5 Deliberative Process (DP)

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

Message

From: Senter, Stephen [Senter.Stephen@epa.gov]
Sent: 2/19/2021 4:16:01 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: Koerber, Mike [Koerber.Mike@epa.gov]; Brown, Annette [Brown.Annette@epa.gov]
Subject: BRIEFING MATERIALS: Monday Feb 22 - Goffman Briefing - Bi-weekly Oil and Natural Gas (O&G) Sector Meeting
Attachments: Oil and Gas Project Blueprint.docx

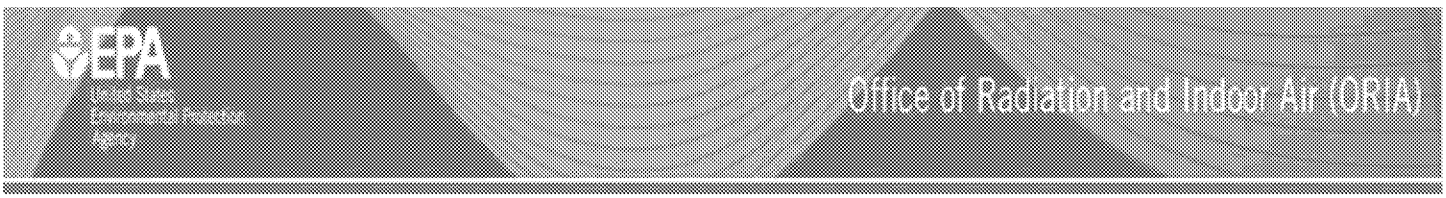
Please see the attached for the following briefing with Joe:

Monday, February 22 @ 1:30PM: Bi-weekly Oil and Natural Gas (O&G) Sector Meeting

Please let me know if you have any questions.

Message

From: Marbury, Candice [Marbury.Candice@epa.gov]
Sent: 2/11/2021 10:25:57 PM
To: White, Rick [White.Rick@epa.gov]; Bacon, Stefanie [Bacon.stefanie@epa.gov]; Jackson, Scott [Jackson.Scott@epa.gov]; Esher, Diana [Esher.Diana@epa.gov]; Edwards, Jonathan [Edwards.Jonathan@epa.gov]; Stewart, Gretchen [Stewart.Gretchen@epa.gov]; Millett, John [Millett.John@epa.gov]; Shaw, Betsy [Shaw.Betsy@epa.gov]; Febbo, Carol [febbo.carol@epa.gov]; Zhen, Davis [Zhen.Davis@epa.gov]; Perry, Stuart [Perry.Stuart@epa.gov]; Snowbarger, Robert [Snowbarger.Robert@epa.gov]; Lewis, Josh [Lewis.Josh@epa.gov]; Veal, Lee [Veal.Lee@epa.gov]; Cherepy, Andrea [Cherepy.Andrea@epa.gov]; Rowson, David [Rowson.David@epa.gov]; Smith, Alisa [Smith.Alisa@epa.gov]; Griggs, John [Griggs.John@epa.gov]; Clark, Mike S. [Clark.Michael@epa.gov]; Stafford, Andrea [Stafford.Andrea@epa.gov]; Wilds, Edward [Wilds.Edward@epa.gov]; Hoyt, Sarita [Hoyt.Sarita@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
CC: Murphy, Stacy [Murphy.Stacy@epa.gov]; Moyer, Michelle [moyer.michelle@epa.gov]; LeSane, Heidi [Lesane.Heidi@epa.gov]; Berry, Mark [Berry.Mark@epa.gov]; Mollsen, Helen [mollsen.helen@epa.gov]; Paguia, Monica [paguia.monica@epa.gov]; Mitchell, Ken [Mitchell.Ken@epa.gov]; McTigue, Erin [McTigue.Erin@epa.gov]; Childers, Pat [Childers.Pat@epa.gov]; Melanson, Kate [Melanson.Kate@epa.gov]; Jablonowski, Eugene [jablonowski.eugene@epa.gov]; Burke, Dan [Burke.Dan@epa.gov]; Benoit, Eugene [benoit.eugene@epa.gov]; Mehta-Sampath, Ameesha [Mehta-Sampath.Ameesha@epa.gov]; Schulingkamp, Cristina [schulingkamp.cristina@epa.gov]; Bolden, Janice [Bolden.Janice@epa.gov]; Blakely, Lashon [Blakely.Lashon@epa.gov]; Batka, Sheila [Batka.Sheila@epa.gov]; Marrero, Jeanette [Marrero.Jeanette@epa.gov]; Aquino, Marcos [Aquino.Marcos@epa.gov]; Barry, Michael [Barry.Michael@epa.gov]; Brozowski, George [brozowski.george@epa.gov]; Generette, Lloyd [Generette.Lloyd@epa.gov]; Honnellio, Anthony [Honnellio.Anthony@epa.gov]; Hooper, Charles A. [Hooper.CharlesA@epa.gov]; Knutson, Lingard [Knutson.Lingard@epa.gov]; Povetko, Oleg [Povetko.Oleg@epa.gov]; Richards, Jon M. [Richards.Jon@epa.gov]; Mahler, Tom [mahler.tom@epa.gov]; Wagner, Christine [Wagner.Christine@epa.gov]; Waldon, Margaret [Waldon.Margaret@epa.gov]; Hulting, Melissa [hulting.melissa@epa.gov]; Fuoco, Marta [fuoco.marta@epa.gov]; Paguia, Monica [paguia.monica@epa.gov]; Worley, Gregg [Worley.Gregg@epa.gov]; Davis, Amber [Davis.Amber@epa.gov]; Cooper, Artra [Cooper.Artra@epa.gov]; Woodruff, Kevin [Woodruff.KevinL@epa.gov]; Jay, Michael [Jay.Michael@epa.gov]; Algoe-Eakin, Amy [Algoe-Eakin.Amy@epa.gov]; Cooper, Artra [Cooper.Artra@epa.gov]; Payan, Melissa [Payan.Melissa@epa.gov]; Iglesias, Ariel [Iglesias.Ariel@epa.gov]; Siegel, Kathryn [siegel.kathryn@epa.gov]; Perez, Idalia [Perez.Idalia@epa.gov]; Azzam, Nidal [Azzam.Nidal@epa.gov]; McAuley, Jim [mcauley.jim@epa.gov]; Musante, Jason [Musante.Jason@epa.gov]; Weiss, Benjamin [weiss.benjamin@epa.gov]; Milhollin, Chandler [Milhollin.Chandler@epa.gov]; Freed, Rachel [freed.rachel@epa.gov]; Bird, Patrick [Bird.Patrick@epa.gov]; Payan, Melissa [Payan.Melissa@epa.gov]; Spenillo, Justin [Spenillo.Justin@epa.gov]; Vaupel, Claudia [Vaupel.Claudia@epa.gov]; Reynolds, Mary [Reynolds.Mary@epa.gov]; Ly, Su [Ly.Su@epa.gov]; Askinazi, Valerie [Askinazi.Valerie@epa.gov]; Gutierrez, Juan [Gutierrez.Juan@epa.gov]; Laurita, Matthew [Laurita.Matthew@epa.gov]; Sareen, Neha [sareen.neha@epa.gov]
Subject: ORIA Weekly - The Week Ending February 12, 2021
Attachments: ORIA Weekly February 122021.docx



ORIA Weekly – February 12, 2021

RECENT EVENTS

- **RPD Staff Participated in Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Workgroup Meeting:** On February 9, RPD's Kathryn Snead and Wagnus Prioleau, alongside EPA colleagues from Regions 2 and 5 and OLEM participated in the MARSSIM Workgroup meeting. This meeting discussed the EPA Science Advisory Board – augmented Radiation Advisory Committee review of MARSSIM, Revision 2. The MARSSIM Workgroup is comprised of four federal agencies with regulatory authority over radiation sites: EPA, DoD, DOE, and NRC. MARSSIM provides a technical consensus approach for designing surveys to determine whether a site meets radiological criteria for release.

- **RPD Staff Participated in the NNSA Graduate Fellowship Program (NGFP) Virtual Career Fair:** On February 10, RPD's Gary Chen, Sara DeCair, Chris Hallam, and David Stuenkel staffed a virtual booth at the NNSA Graduate Fellowship Program (NGFP) Virtual Career Fair. The staff chatted with NGFP fellows about possible future opportunities at EPA.

- **RPD Staff Participated in Interagency Modeling and Atmospheric Assessment Center (IMAAC) Meeting:** On February 10, RPD's Kathryn Snead and Holly Arrigoni of RPD, alongside EPA colleagues from OLEM, participated in the IMAAC Steering Committee online meeting. This meeting discussed recent exercises and incidents involving the IMAAC, as well as the development of the next draft of the IMAAC Concept of Operations document. The FEMA-led IMAAC Steering Committee is comprised of federal agencies contributing to, conducting, or utilizing atmospheric predictions for airborne or waterborne releases of hazardous materials.

- **RPD Staff Participated in Coordination Meeting for Upcoming International Exercise:** On February 10, RPD's Kathryn Snead, Holly Arrigoni, Val Anoma, and Danielle Montecalvo participated in a multiagency coordination meeting in preparation for an upcoming multi-national nuclear power plant exercise led by the International Atomic Energy Agency (IAEA). The coordination meeting was an opportunity for members from Department of Energy, Nuclear Regulatory Commission, Department of State, and EPA to initiate conversations on possible participation, roles, and coordination during the March exercise.

- **ORIA Staff Mission Assigned to FEMA's Vaccine Distribution Task Force** – See 2/5/21 ORIA Weekly for more details.
- **ORIA Staff Participated in RadResponder Nationwide Drill - National Background Week 2021** – See 2/5/21 ORIA Weekly for more details.

- **RPD Participated in IAEA Virtual Workshop** – See 2/5/21 ORIA Weekly for more details.

- **IED's Mitchell and Kroenert Hosted a Session for Cookstove Testing Experts:** On February 10, IED's John Mitchell and Jessica Kroenert and ORD's Jim Jetter hosted and led another virtual session in the series to support the adoption, adaptation, and implementation of national standards for cookstoves in Francophone countries. The virtual session is in partnership with the Clean Cooking Alliance, Aprovecho Research Center, Colorado State

University, the International Organization for Standardization (ISO), and the World Health Organization. More than 26 cookstove testing experts from 13 countries joined the virtual session which focused on the recently finalized ISO standard on harmonized laboratory protocols to test cookstoves.

- **National Radon Action Month Wrap-up:** January was National Radon Action Month: Throughout the month of January, ORIA/IED, Regional Offices, state grantees and NGO partners encouraged Americans to "Test. Fix. Save a Life" as part of National Radon Action Month (NRAM). The annual outreach campaign featured a national press, social media posts, stakeholder engagement messages in English and in Spanish, new infographics and targeted outreach by EPA Regional programs. During January, views of EPA radon webpages accounted for over 30% of all traffic to EPA indoor air webpages with over 143,000 unique page views. EPA's radon program plays a critical role in promoting and supporting Americans to take action on radon. Based on our most recent data, we estimate that over 130,000 homes with high levels were mitigated in 2020 and 21% of all new single-family homes were built with radon-resistant features in the last year.

Emergency Response

- **FEMA Post-Plume Awareness Course:** On February 9-10, members of NCRFO's CPT staff attended the FEMA REP Post-Plume Awareness Course. The purpose for this awareness-level course is to provide a precise training track which focuses on the unique considerations of the 50-mile Emergency Planning Zone, Offsite Response Organizations responsible for addressing the implementation of precautionary measures and protective actions relating to "exposure" and "ingestion" interventions during the Post-Plume (Intermediate) phase of a radiological incident from NRC-licensed commercial nuclear power plants. Having a thorough understanding of the decisions impacting our State and Local partners during a radiological incident helps the RERT to provide a more robust and effective response when called upon.

- **ORIA Communications SOP for Emergency Response:** On February 11, 2021 NCRFO's Evelyn Conerly led a small group discussion consisting of NAREL's Josh Pate and Region 6's George Brozowski in efforts to develop a one-page draft document that will provide best practices on how the lines of communication should be followed during a response to a radiological incident between ORIA, the Data Support Center, RERT or other designated points of contact. This document is intended to replace the 2012 ORIA Communications SOP.

- **Analytical Radiation Data System (ARadDS) Reporting:** Scott Smith submitted the monthly Information Technology Dashboard (ITDB) data call for Major IT investments to the Capital Planning and Investment Control team. The purpose of the Federal ITDB is to provide information on the effectiveness of government IT programs and to support decisions regarding the investment and management of resources. The status of EPA's Major investments is updated monthly and publicly available on the Office of Management and Budget ITDB.

- **EMS Training:** Over the past 4 weeks, several members of the EMS team have been taking a virtual ISO 14001:2015 training course provided by the North Carolina Department of Environmental Quality (NCDEQ). The course was 4 half day sessions and provided in depth coverage of all ten sections of the ISO guide on setting up an Environmental Management System. The course consisted of lectures as well as exercises that were directly relatable to

NAREL's EMS program. The team gained insightful knowledge of the standard and will look to implement what they learned in improving the site's EMS. NAREL staff members will also be taking annual EMS Awareness training over the next few weeks. Awareness training provides a refresher on EMS and NAREL's specific aspects, their objectives and goals.

NAREL Staff Continue to Support the Regions on Several Radioanalytical Projects:

- NAREL continues working on Region 2's Niagara Falls Boulevard site in New York which contains radioactive slag used as a sub-base for a large parking lot; and the US Radium Corporation site located in Orange County, NJ, which was a former radium-processing plant.
- NAREL recently received soil samples form Region 9's Hunter's Point Naval Shipyard Superfund site located in San Francisco, California, which was home to a shipyard from 1945 to 1974 and the Naval Radiological Defense Laboratory (NRDL) from 1948 to 1969. Efforts to decontaminate and remediate contaminated soils, buildings, and other media at the 934-acre site have been underway since at least the 1960s.
- Region 10's Thorne Road site located in Tacoma, WA, is an industrial property that previously operated as a bauxite-ore processing facility where the ore was crushed and dissolved removing the alum from the resulting slurry. NAREL is analyzing air filter, soil, and water samples for gamma, uranium, thorium, and radium.

RadNet Report for the Week of February 1, 2020

Overall monitor operational percentage was 87.3%. This is above the operational goal of 80%.

UPCOMING EVENTS (As of February 12)

Indoor Air Quality

- **IED's Enger to Participate in the 2021 National and South Carolina School Conference and Trade Show:** On February 16, IED's Tracy Enger will participate in the 2021 National and South Carolina School Plant Management Association Conference and Trade Show. Tracy will host and facilitate a virtual technical assistance training and networking session during the event. Participants will discuss the benefits of indoor air quality preventive maintenance and its impact on a healthy school indoor environment.

- **IED's Mitchell to Participate in the President's Task Force on Environmental Health Risks and Safety Risks to Children:** On February 18, IED's Tracey Mitchell will represent EPA at the President's Task Force Senior Steering Committee meeting. Participants will discuss the Task Force's initiatives and workplans. The Task Force includes 17 federal agencies and is the focal point for federal government agencies to coordinate for the betterment of children's environmental health.

- **School Health and Indoor Environments Leadership Development (SHIELD) Meeting:** On February 18, IED's Schools Team will host a School Health and Indoor Environments Leadership Development (SHIELD) Network meeting. Meeting invitees include non-

governmental organizations, school district representatives with established IAQ management programs, industry leaders, government agencies (federal and state level), and community-based asthma coalitions focused on schools and/or healthy indoor environments. Representatives from the Centers for Disease Control and Prevention, the Department of Education and the National Institutes of Technology who have been particularly active collaborators on school IAQ are expected to attend. IED will lead discussions on accelerating progress on indoor environmental health in schools through the green and healthy schools movement featuring members of the American Society of Heating Refrigerating and Air Conditioning Engineers (ASHRAE), the International Society of Indoor Air Quality and Climate (ISIAQ) and several prominent researchers and model school districts. Participants will also be able to share and highlight the unique and impressive set of assets and resources each stakeholder brings to the Network so they can align with one another through their collective assets.

Radiation Protection

- **ORIA Staff to Participate in Interagency Nuclear Safety Review Board (INSRB) Quarterly Meeting:** On February 17, NAREL's Scott Telofski, and RPD's Danielle Montecalvo and Chris Hallam will participate in an INSRB quarterly virtual meeting. Topics will include implementation of National Security Presidential Memorandum #20, consideration for space nuclear consensus standards, and programmatic and technical discussions regarding the Defense Advanced Research Projects Agency's (DARPA) Demonstration Rocket for Agile Cislunar Operations (DRACO) mission currently scheduled for FY2025 which will demonstrate the use of nuclear thermal propulsion.

Tribal Support

- **Tribal Air Monitoring Support (TAMS) Training Webinar:** On February 16, 2021, the TAMS Center is conducting an online webinar on Estimating Non-Point Source Emissions. This webinar will present potential methods used to estimate emissions for common nonpoint sources located on Tribal Lands. It will discuss in detail what data needs to be collected in order to use these methods, as well as how to enter the data into calculators and spreadsheets. The primary focus of this webinar will be on estimating emissions using original data gathering, rather than on summarizing emissions data already calculated at the county level in the National Emissions Inventory (NEI) database.

To view previous editions of the ORIA Weekly, click here

Thank you

Candice M. Marbury, Special Assistant
OAR/ORIA/IO
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1301 Constitution Ave, NW
Mail code: 6601T
Washington, DC 20004
Tel: (202) 343-9861
Fax: (202) 343-2395

Message

From: Millett, John [Millett.John@epa.gov]
Sent: 3/10/2021 6:41:09 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
Subject: FW: Revised CSAPR Update -- draft PR and comms plan
Attachments: OAR Communications Plan_Final Revised CSAPR Update DRAFT 3.10.21.docx; PR Final CSAPR Remand Update 3.10.21 clean v4.docx

Hi Joe and Tomás -- Sending this so you have the latest version of the comms materials and confirmation that it went out from OAR to all the ships at sea. There's a good set of talking points in the comms plan if you need them over the next couple of days; that's what we'll pull from if it's determined that we need to do a stakeholder or press call/s.

We're looking to get on OPA/OCIR/OCEEE calendars to discuss rollout for other pieces, such as calls, announcement timing and web postings, to get this out the door. Questions welcome, and updates to come.

Thanks –

John

From: Millett, John
Sent: Wednesday, March 10, 2021 1:03 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conger, Nick <Conger.Nick@epa.gov>; Nancy Grantham <Grantham.Nancy@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Katims, Casey <Katims.Casey@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>
Cc: Jack Bowles <Bowles.Jack@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Isabel DeLuca <DeLuca.Isabel@epa.gov>; Stevens, Katherine <stevens.katherine@epa.gov>; Enesta Jones <Jones.Enesta@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Andrea Drinkard <Drinkard.Andrea@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; LaCount, Melanie <lacount.melanie@epa.gov>
Subject: Revised CSAPR Update -- draft PR and comms plan

Hi All – attached are the draft materials for the Revised CSAPR Update Final Rule. We'll work with OPA to get something on folks' calendars tomorrow to discuss the rollout and the tick-tock. Deadline for signature is Monday, 3/15. Meantime, please let me know if you have any questions.

Thanks –

John

~~~~~~~~~~~~~~~~

John Millett
Director, OAR Communications
Desk: 202-564-2903
Cell: 202-510-1822
~~~~~~~~~~~~~~~~

Message

From: Agri-Pulse Daybreak [sara@agri-pulse.com]
Sent: 2/24/2021 9:59:27 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daybreak Feb. 24: Mr. Secretary is back * Interior nominee reaches out * Poultry giant pleads guilty

Agri-Pulse Daybreak Feb. 24: Mr. Secretary is back * Interior nominee reaches out * Poultry giant pleads guilty

Your Agri-Pulse Daybreak for February 24, 2021

Sponsored by Edge Dairy Farmer Cooperative

Agri-Pulse Daybreak

Click Here To Listen

Vilsack taking charge at USDA

Tom Vilsack will be back in very familiar surroundings today after winning easy Senate confirmation as agriculture secretary. He is expected to be sworn in today.

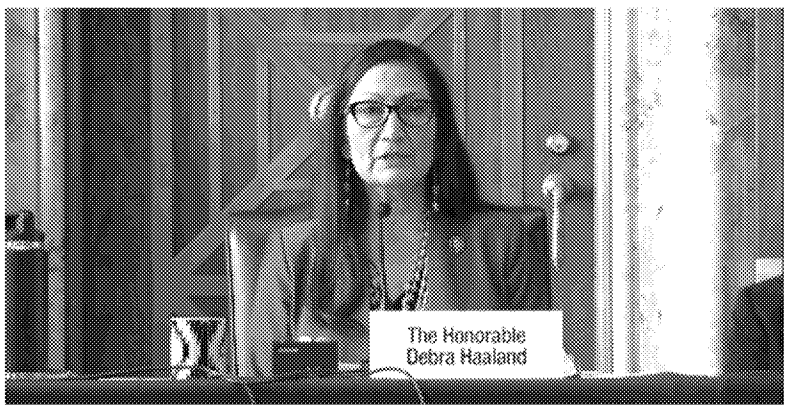
The Senate voted 92-7 Tuesday to approve Vilsack. All of the no votes came from Republicans except for Sen. Bernie Sanders.

What's next: The top Republican on the House Agriculture Committee told state ag commissioners on Tuesday he expects Vilsack to "move ahead with the release" of Coronavirus Food Assistance Program payments. The incoming administration paused the payments to farmers in order to review the program. There is additional coronavirus assistance that was funded by Congress that has yet to be implemented by USDA.

Vilsack has more work coming at him in the form of the $1.9 trillion stimulus plan that Democrats are pushing through Congress. The bill includes nearly $23 billion in new ag and nutrition spending.

Take note: Sanders told reporters that he voted against Vilsack because he thinks "we need somebody a little bit more vigorous in terms of protecting family farms and taking on corporate." But Sanders went on to say that Vilsack will be "fine" as secretary.

Read our report on the confirmation vote here.



Interior nominee strikes moderate stance

Interior Secretary nominee Deb Haaland de-emphasized her past statements opposing fossil fuel extraction on federal lands,

repeatedly describing the halt imposed by Biden as a “pause” in order to review the department's leasing program.

It's unlikely the New Mexico congresswoman’s statements at the Energy and Natural Resources confirmation hearing changed the minds of any of the GOP members who have openly opposed her nomination, most notably Montana Sen. Steve Daines. But the tone of her remarks was relatively moderate compared to how critics see her.

While saying she expects fossil fuel energy to "continue to play a major role" in the American energy landscape, Haaland also said Biden's agenda "demonstrates that America’s public lands can and should be engines for clean energy production."

In response to Utah GOP Sen. Mike Lee's criticism of national monument designations, Haaland said that "everyone deserves to have a say in those."

Take note: Haaland got a key endorsement later Tuesday when Sen. Jon Tester, D-Mont., announced he would vote for her. He said Haaland “demonstrated a strong commitment to protecting Montana’s public lands, creating good paying jobs, upgrading aging water infrastructure in rural America, and ensuring the federal government meets its trust and treaty responsibilities to Tribal nations.”

Grassley to press Tai on China trade deal

Iowa GOP Sen. Chuck Grassley wants to make sure that the Biden administration will continue to press China to live up to its ag purchase commitments under the “phase one” trade deal, and

he says he intends to press U.S. Trade Representative nominee Katherine Tai on the issue Thursday at her confirmation hearing.

Speaking to reporters Tuesday, Grassley stressed he will be "following up on what (the Biden administration) is going to do to police China in keeping the agreement to buy" $80 billion worth of U.S. ag commodities in 2020 and 2021.

Grassley said he will also ask for a progress report on how the U.S. is rallying Japan, South Korea, Canada and the European Union to join with the U.S. in its efforts to force China to be a more fair and transparent trading partner.

China uncommitted on ethanol expansion

China has been buying U.S. ethanol recently, raising hopes that the country is going to commit to importing much more in 2021, but it's still unclear just how much the Chinese want to invest in the long-term use of the fuel, says Gregg Doud, a former chief agricultural negotiator for the U.S. trade representative.

"My sense is that China is really trying to think through this whole notion of infrastructure for the use of ethanol and blending," Doud, now the chief economist for Aimpoint Research, said in a webinar hosted Tuesday by the Farm Foundation.

China has already signaled its desire to shift automobile production to electric cars. Doud says that will play a role in how much the country wants to commit to the future of blending ethanol into gasoline.

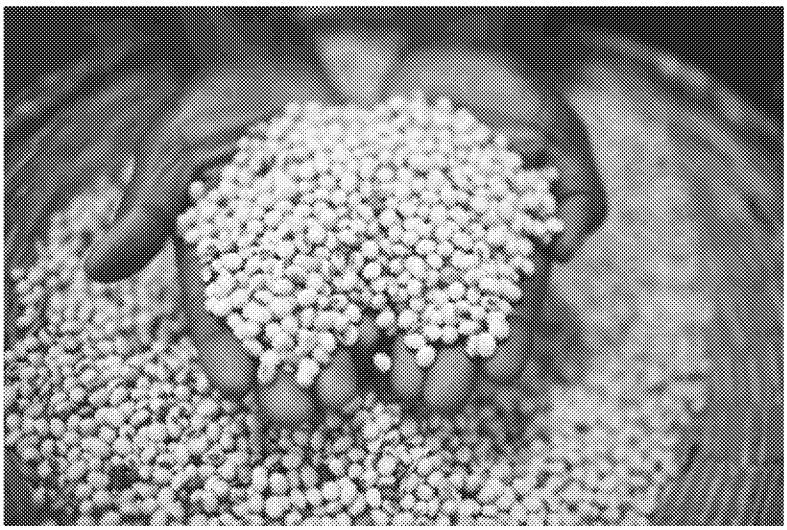
We have more on agricultural trade prospects with China in this week's Agri-Pulse newsletter.

Pilgrim's Pride pleads guilty to price-fixing

Poultry giant Pilgrim's Pride has pleaded guilty and agreed to pay a criminal fine of nearly $108 million for taking part in price-fixing and bid-rigging in the broiler chicken market.

The company's guilty plea came at a hearing Tuesday in federal court in Colorado. The plea agreement says the company's participation in a conspiracy "with at least one competitor" affected $361 million in sales to KFC from 2013 through 2017.

Pilgrim's is the first company to plead guilty for its role in a conspiracy to fix prices and rig bids for broiler chicken products. "Ten executives and employees at major broiler chicken producers have also previously been charged," the Justice Department said. "The investigation remains ongoing."



Food Prize laureates to Biden: Prioritize world hunger

Some 24 World Food Prize laureates are asking President Joe Biden to prioritize reducing hunger across the globe.

"Hunger levels are rising, child undernutrition levels are at severe risk of rising, obesity is increasing, we are off track to meet climate targets, biodiversity is being squandered, not enough decent jobs are being created and community resilience is being undermined," the laureates say in a letter.

They also say the administration should play a leadership role in the upcoming United Nations Food Systems Summit and expand the USAID Feed the Future initiative to more countries.

He said it. "Thanks for being all beef and no bull today." – Kentucky Ag Commissioner Ryan Quarles to Sen. John Boozman, R-Ark., who often talks about his experience with breeding cattle. Quarles is president of the National Association of State Departments of Agriculture.

Ben Nuelle, Bill Tomson and Steve Davies contributed to this report.

Questions? Tips? Contact Philip Brasher at philip@agri-pulse.com

Brought to you by: Edge Dairy Farmer Cooperative

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Message

From: POLITICO Pro [politicopro@info.politicopro.com]
Sent: 3/8/2021 4:04:24 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: You're Invited | Pro Briefing: Biden's Climate Plan & the Agriculture, Trade & Energy Impacts

POLITICOPRO

LOG-IN CUSTOMIZE CONTACT

Dear Joseph,

On the campaign trail, President Joe Biden promised to make environmental and clean energy policies a centerpiece of his administration's fight against climate change.

Can the Biden team achieve climate goals, and how? Will regulatory authority or executive action be extensively used? Or can the administration push for climate-friendly considerations within larger legislation, like a proposed infrastructure package. And lastly, what is the potential climate policy impact on vital industries like agriculture, trade, and energy, and how will those businesses lobby for favorable terms?

Register

You're invited to join POLITICO Pro reporters on **Thursday**, **March 11th at 11:00 a.m. EST** to discuss the administration's focus on climate policy and how it will impact politics and business in the coming years.

Conference Call Details:

- Thursday, March 11th, 2021
- 11:00 a.m. EST - 12:00 p.m. EST
- Exclusive to POLITICO Pro subscribers
- Q&A session at the end of the call

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Message

From: POLITICO Pro Energy [alert@email.politicopro.com]
Sent: 3/3/2021 3:42:26 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Granholm: Jigar Shah to lead loan office

Granholm: Jigar Shah to lead loan office

By Eric Wolff

03/03/2021 10:40 AM EST

Energy Secretary Jennifer Granholm said Wednesday that clean energy entrepreneur Jigar Shah will lead and help reinvigorate the department's loan office, which has $40 billion in lending authority, to support the deployment of zero-emission energy.

The details: Granholm, speaking at the CERAWeek energy conference, laid out her vision for facilitating President Joe Biden's call to decarbonize the grid by 2035.

"One other tool, very importantly is our ability to fund the deployment of clean energy technologies and perhaps the best known case is the once-mighty loan program office that, as of today, is back in business," she said. "Our loan authority, about $40 billion worth, has helped some of America's bravest entrepreneurs get their best ideas off the ground and flourish."

Choosing the entrepreneur Shah to lead the office suggests an aggressive use of that money, as Shah has made his living investing capital into clean energy and is a well-known climate hawk. Shah is also known for founding SunEdison — one of the companies that helped lead the U.S. renewable energy boom.

"The loan programs office went unused over the last four years, but I am ready to rev those engines back up so that we can spur the next generation of innovation and deployment," she said.

Shah, co-founder of San Francisco-based finance company Generate Capital, noted his excitement about joining the Biden-Harris administration. "Secretary Granholm has been a fierce advocate for job creation through decarbonization and I look forward to helping the Federal Government be an safe and inviting place for innovation to be deployed at scale," he said via tweet.

The context: DOE's loan office has been a punching bag for Republicans after it invested in the failed solar cell maker Solyndra. But Granholm defended the program, saying it has netted taxpayers $500 million while also promoting the fledgling solar industry and helping electric car maker Tesla build its first factory.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2021/03/granholm-jigar-shah-to-lead-loan-office-3987349

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Arlington, VA 22209
USA

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 2/16/2021 7:58:13 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
Subject: FOR YOUR REVIEW: Slide deck for OA Planning Session
Attachments: OAR Planning Session_021721.pptx

Joe, as discussed this morning, attached is the draft slide deck for use during tomorrow's briefing. It's very straight-forward, 2 slides per office plus a slide from OAPPS on the BCA (additional edits may be forthcoming on this slide). If you are comfortable with the content/approach, once I receive the last edit to the OAPPS slide, we'll send this forward to the OA.

The spreadsheet should be coming soon. Still waiting on last inputs from one of the programs.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

Message

From: Morgan, Ruthw [morgan.ruthw@epa.gov]
Sent: 2/12/2021 6:29:42 PM
Subject: AO Staff Office Weekly Report for the week ending February 12, 2021.
Attachments: AO Staff Weekly Report 021221v2.docx; AO Staff Weekly Report 021221v2.pdf

Good afternoon Acting Administrator Nishida and colleagues,

Attached please find the **AO Staff Office Weekly Report** (in both PDF and Word) for the week ending February 12, 2021.

Sincerely,
Ruth

Ruthw Morgan, Special Assistant
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1326
Morgan.Ruthw@epa.gov

Message

From: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Sent: 2/25/2021 3:13:09 PM
To: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: FW: TN I/M Request Letter 2-24-21
Attachments: TN I-M Request.pdf

FYI

From: David Salyers <David.Salyers@tn.gov>
Sent: Wednesday, February 24, 2021 5:31 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Katims, Casey <Katims.Casey@epa.gov>
Subject: TN I/M Request Letter 2-24-21

Good Afternoon:

Please let me know if you have any questions.

Best,

Department of
Environment &
Conservation

David W. Salyers, P.E. | Commissioner
William R Snodgrass/TN Tower, 2nd Floor
312 Rosa L. Parks Avenue, Nashville, TN 37243
p. 615-532-0106
David.Salyers@tn.gov
tn.gov/environment

Message

From: E&E News [ealerts@eenews.net]
Sent: 3/2/2021 9:09:40 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: March 2 -- E&E News PM is ready

E&E News PM -- Late-Breaking News

Read today's E&E News PM on the web

E&E NEWS PM

AN E&E NEWS PUBLICATION

E&E NEWS PM — Tue., March 2, 2021

READ FULL EDITION

1. HOUSE:

Top Dems unveil sweeping climate, environmental justice bill

Top House Democrats today introduced a bill that offers an economywide outline to achieve net-zero greenhouse gas emissions by 2050, a potential starting point for the kind of broad climate change legislation that President Biden promised on the campaign trail.

THIS AFTERNOON'S STORIES

2. NOMINATIONS:

Senate confirms Gina Raimondo as Commerce secretary

3. ADVOCACY:

Keystone XL developer hires lobbyist with Biden ties

4. NOMINATIONS:

Former staffers line up to endorse McCabe as EPA deputy

5. AIR POLLUTION:

Enviros press EPA on smog concerns in Permian Basin

UPCOMING HEARINGS AND MARKUPS

6. CALENDAR:

Activity for March 1 - March 7, 2021

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Message

From: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Sent: 2/2/2021 8:32:28 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: FW: READING: Briefing Materials for Tuesday, February 2, 2021
Attachments: Goffman Joseph Calendar.ics; OAR Overview Presentation_020221.pptx; Pending SIP Actions Paper 1 29 2021 rev.docx

Hi Joe, the briefing paper is attached here

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Monday, February 1, 2021 6:14 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: READING: Briefing Materials for Tuesday, February 2, 2021

Goffman, Joseph Calendar
Goffman.Joseph@epa.gov
On Tuesday, February 2, 2021
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

February 2021

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

Busy
Out of Office
Tentative
Working Elsewhere
Free
Outside of Working Hours

February 2021

Tue, Feb 2

	Before 8:00 AM	**Free**
	8:00 AM – 8:30 AM	**Free**
	8:30 AM – 9:00 AM	Check-In
	9:00 AM – 9:15 AM	**Free**

■	9:15 AM – 10:00 AM	Air Issues Meeting
■	10:00 AM – 10:30 AM	Management Roundtable
■	10:30 AM – 11:00 AM	Appropriations Language
■	11:00 AM – 11:45 AM	OAR Senior Staff
■	11:45 AM – 12:30 PM	Lunch/Management time
■	12:30 PM – 1:00 PM	FY21 Operating Plan w/ OPMO (materials will be available during meeting)
■	1:00 PM – 1:30 PM	One-on-One with Tomas Carbonell
■	1:30 PM – 2:15 PM	OTAQ Weekly
■	2:15 PM – 3:15 PM	Briefing: OAR Overview (materials attached)
□	**3:15 PM – 3:30 PM**	**Free**
■	3:30 PM – 4:15 PM	Recently signed/pending regional state implementation plan actions (materials attached)
□	**4:15 PM – 4:30 PM**	**Free**
■	4:30 PM – 5:00 PM	General Discussion
■	5:00 PM – 5:30 PM	Management Time
■	5:30 PM – 6:00 PM	Cars Working Group
□	**After 6:00 PM**	**Free**

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

Message

From: E&E News [ealerts@eenews.net]
Sent: 3/1/2021 6:35:05 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: March 1 -- Greenwire is ready

Greenwire -- The Leader in Energy and Environment News

Read today's Greenwire on the web

GREENWIRE

AN E&E NEWS PUBLICATION

GREENWIRE — Mon., March 1, 2021

READ FULL EDITION

1. PUBLIC LANDS:

Biden administration rescinds Hammonds' grazing permits

The Interior Department on Friday rescinded grazing permits to a pair of Oregon ranchers who previously lost their access to public lands following arson convictions, overturning a last-minute decision by former Secretary David Bernhardt.

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USDA hires racial equity adviser, launches commission

3. ENERGY POLICY:

Manchin, Stabenow float $4B coal community investment bill

4. EPA:

Environmental justice advisers eye more muscular agency role

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First Black female engineer is 'a hidden figure no longer'

6. NOMINATIONS:

Former EPA deputies back Biden's pick

7. INTERIOR:

Pendley continues campaign to keep BLM in Colo.

8. EPA:

Trump enforcement officials join D.C. law firm

9. PEOPLE:
Nature Conservancy picks climate expert for chief scientist

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11. INVASIVE SPECIES:
Fla. restricts exotic reptiles like pythons, iguanas

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Misery lingers in Miss. capital after storms hit system

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Audit on PFAS efforts draws calls for EPA to 'step up' work

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Agency: Don't put crawfish boil, shells down storm drain

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FEMA gives $3M to elevate flood-prone Ocean City homes

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Elusive wetland bird added to endangered species list

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'Right to repair' some electrical goods aims to reduce waste

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Greenwire is written and produced by E&E News, which is staffed by a dedicated reporting team within the POLITICO newsroom. It's the one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day. Greenwire covers a complete spectrum of issues, from energy policy to Clean Air Act litigation to public lands management. Greenwire publishes daily by 1:30 p.m.

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Message

From: POLITICO Pro Energy [alert@email.politicopro.com]
Sent: 2/16/2021 10:01:30 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: POLITICO Pro Q&A: House Natural Resources Chair Raúl Grijalva

POLITICO Pro Q&A: House Natural Resources Chair Raúl Grijalva

By Zack Colman, Anthony Adragna

02/16/2021 05:00 AM EST

President Joe Biden is vowing to prioritize environmental justice and aid for disadvantaged communities, bringing the new administration in line with the yearslong push by House Natural Resources Chair Raúl Grijalva (D-Ariz.) and Rep. Donald McEachin (D-Va.) to help those frontline communities.

The two lawmakers plan to reintroduce their Environmental Justice For All Act, H.R. 5986 (116), this Congress, from which Biden has already borrowed several policy aims.

In an interview last week with POLITICO, Grijalva acknowledged thorny issues and possible sticking points abound: Details on the Biden administration's vow to provide 40 percent of benefits to disadvantaged communities must be "fleshed out" and identifying eligible populations will be challenging. And he sees political risk in an energy transition for fossil fuel industry workers.

Grijalva said that transition won't happen overnight, but environmental justice will be "one of the most significant bridge issues" in linking the crises of economic, racial, health and climate injustice across the country.

This transcript has been edited for length and clarity.

You've been working on environmental justice issues for quite some time and it seems like the Biden administration has taken a lot of cues from you all. What conversations are you having with the Biden administration and, specifically, have they given you any direction as to what they want from Congress to realize some of the goals you share?

They've occurred with individuals that are part of the Biden administration but not in a session in which you talk about legislation and what can be done administratively with regard to what's in the legislation. So, McEachin, myself and now Sen. Tammy Duckworth are going to basically file the same legislation as a template, and then I think the conversations become more serious.

I really believe there's some very significant things that can be done administratively through policy, through regulation, that are contained within the legislation that could be done that way. I think there [are] some overarching policy issues, and legislative issues that probably need to be clarified. And we'll have those discussions. But we put the bill back in as it was the last time, knowing that discussions have to happen, but also knowing full well that we want to move a piece of legislation.

And we'll start here and see how far we go, in terms of the discussions we have to have with the Biden administration, once those leadership roles are defined more than they are right now.

I've talked to a lot of people — your partner Rep. McEachin, included — who seem to interpret the executive order as directing 40 percent of spending to disadvantaged communities, but the White House says it's 40 percent of the benefits, rather than spending. Is there a need for more clarity from the White House on what they actually mean?

President Biden's commitment to support 40 percent of key federal investment, for poor communities, communities left behind — it's a good thing. But I think in terms of spending, priority, greatest need, I think those things need to be fleshed out in terms of the resources, because there's a lot of things that can be done. And McEachin led the letter — I and Sen. Duckworth joined — to request increased funding for specific programs. That was one thing, but I think when you look at that 40 percent, I think spending has to be part of the discussion and also defining where the greater need is, I think, has to be part of the discussion as well.

As part of this 40 percent commitment, do you include former fossil fuel-producing communities, like coal communities? Are they entitled to a portion of those benefits?

That's a key question: Transition communities have to be part of the investment going forward, because that's where the attention has to be paid into that transition, because that's where the pushback is going to happen with regard to any effort to try to go either on climate change or the important issue we're talking about today: the issue of [environmental justice] and climate justice, as well. So yeah, you have to include them in the 40 percent.

But I think above and beyond that, including them with efforts beyond that, because that transition period is going to be key into how we move forward with the different energy policy.

How do you eventually determine the bounds of what areas qualify or are eligible for these kinds of investments?

It's a really good question, a question that we've been asking each other over and over again. Each [community] was unique and so the matrix issue that you asked me about, that's been the difficult part because other than the very open-ended definitions that I gave about [what communities] experienced or are experiencing, it's been a hard one to define. But I understand going forward that that definition is going to be critical.

Is there an ingrained understanding for the environmental justice groups, which are predominantly people of color, that they're all in the same boat? If resources flow to those predominantly white Appalachian communities, do you have a sense that other communities that have been overlooked will be OK with that?

The working group is predominantly of color — not entirely — and they see poverty and poor people as part of the [environmental justice] community regardless of color. They make it a point to say poor people, you know, regardless. And that's why we included in the definition of "communities of color" low-income communities because there are predominantly, in some of the rural areas, [communities] that become dumping grounds: predominantly white communities, smaller communities that are suffering the same impact as a Latino community somewhere else because of environmental justice issues.

What do you make of the signals you're seeing from Majority Leader Chuck Schumer and Speaker Nancy Pelosi about environmental justice, specifically? And do you think that it's something that they're willing and anxious to take up this year?

Indications from the speaker, yes. I haven't ventured a conversation with the majority leader.

It is one of the one of the most significant bridge issues, environmental justice, that we have. It deals with climate change, introducing climate justice into it. It deals with public health. It deals with economic issues and

deals with issues of systemic racism and discrimination around the issue of social justice. They're all in there under the umbrella of environmental justice. It is both from a policy side and from a societal side and from a political side a very, very, very, very, very powerful bridge issue.

What programs specifically are out there for the people who work in the oil fields or work in hard rock mining? Do they end up just going to private land, we lose track of them? Or is there some way to work with that?

I don't have a good answer. I can tell you just in the Southwest alone, there's [billions needed for] abandoned mine and cleanup that there's not enough money to do. Is part of some of that attended to preliminarily on the infrastructure bill? You see what I mean?

Part of that transition is jobs. Part of the transition is keeping people working. Part of the transition is introducing different careers. The difference between taking something out and restoring something, well it sounds significant, [but] requires a skill set that for both are almost the same. And I think there's some opportunities there not only for Interior, but for other departments to kind of redirect.

Is this a 'throwing money at it' kind of issue?

The point of our transition is that you're moving from something to something permanent and you can't buy your way out of that. It's a process and it's a transition and that doesn't happen overnight.

So you can't buy your way out of it, why not?

I think what you want to create is something long-term, not something short-term, where the questions are of jobs and livelihood. And I think that takes much more than funding, certain job training programs, certain subsidies for certain periods of time. ... There's got to be some permanency at the end of the line in terms of people's livelihoods. And that's a longer process and tougher transition.

To view online:
https://subscriber.politicopro.com/energy/article/2021/02/politico-pro-q-a-house-natural-resources-chair-raul-grijalva-2035356

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To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Morning News Clips, February 4, 2021

Grist - In North Carolina, EPA nominee Michael Regan opened his door to activists — and industry
https://grist.org/politics/michael-regan-epa-north-carolina-environmental-justice/
By Adam Mahoney on Feb 3, 2021

Joe Biden has said that he wants to put America "back in the business of leading the world on climate change." On the campaign trail last year, he touted a $2 trillion clean energy recovery plan, and during his first days in office he debuted a slew of environmental executive actions. Biden has also indicated that he believes "leading the world on climate change" involves centering environmental justice — the disproportionate burden that pollution and climate change present to low-income communities and people of color.

Many of the administration's environmental justice efforts will likely pass through Michael Regan, Biden's nominee to head the Environmental Protection Agency, or EPA. Regan, who is currently secretary of North Carolina's Department of Environmental Quality, or DEQ, will face questions before the Senate on Wednesday, in advance of his confirmation vote.

Regan, who is also a former EPA official for the Clinton and Bush administrations, is poised to become the first Black man to run the EPA. He'll have his work cut out for him, inheriting an agency whose authority has been diminished by the Trump administration's relentless regulatory rollbacks and an exodus of career staffers due to a decline in agency morale.

Regan outlasted Mary Nichols, the previous frontrunner to lead Biden's EPA, primarily because he received more support from progressive leaders and environmental justice advocates. This support rested largely on Regan's record at North Carolina's DEQ, where he created the state's first Environmental Justice and Equity Board, a community advisory body intended to give underrepresented state residents a voice in environmental law enforcement.

Advocates who worked with Regan around that effort told Grist that he changed the state's culture around environmental justice by opening his doors to ordinary North Carolinians, regularly holding conversations with residents of communities near toxic sites, and prioritizing economic and environmental rejuvenation for areas facing high levels of pollution. For some advocates, however, Regan's positive work was sometimes overshadowed by his apparent deference to high-polluting industries that North Carolina political leaders saw as key pillars of the state's economy.

This balancing act is captured in a new analysis from the Environmental Data and Governance Initiative, or EDGI, a nongovernmental organization that advocates for the transparent provision of federal environmental data. EDGI's analysis of the North Carolina DEQ's enforcement actions, monetary penalties, and facility inspections found that Regan's DEQ completed double the amount of inspections and levied hundreds of thousands of dollars more in penalties than his Republican predecessor. However, the number of enforcement actions, in which the department writes formal notices and administrative orders intended to actually remedy violations, remained about the same during both administrations.

"[DEQ] started doing a lot more inspections, which is really important because it's a key way in which violations of protection laws like the Clean Water and Clean Air Act are found. But we didn't see huge turnaround with enforcement," said Eric Nost, an EDGI researcher and assistant professor at the University of Guelph in Canada.

Nevertheless, environmental advocates in North Carolina told Grist that Regan has been a coalition-builder who's made participation in the state's regulatory process more democratic.

"The first thing I have to say is that, prior to Secretary Reagan becoming the head of the Department of Environmental Quality, there was no relationship between the agency and communities in North Carolina," said Naeema Muhammed, one of 16 inaugural members of the Environmental Justice and Equity Board that Regan started. "We didn't get a real voice until he came into office."

The decommissioned Duke Energy coal-fired steam station in Eden, NC, was the source of a 2014 coal ash spill. John D. Simmons / Charlotte Observer / Tribune News Service via Getty Images
Regan, whose own interest in environmental justice began after an asthma diagnosis as a child, used this community-centered approach while leading the DEQ in negotiations that resulted in the cleanup of the Cape Fear River, which had been contaminated with dangerous per- and polyfluoroalkyl substances (the so-called "forever chemicals" known by the acronym PFAS). He used a similar tack to reach a settlement with the utility Duke Energy that led to the largest coal ash cleanup in the United States.

President Biden hopes to mimic Regan's equity work on a national level by creating an environmental and climate justice division within the Justice Department to "hold corporate executives personally accountable" for exposing workers and communities to pollution. He also plans to elevate the EPA's Environmental Justice Advisory Council, which provides advice and recommendations to the head of the EPA, to a White House entity reporting to the White House Council on Environmental Quality. That would give the council, which is composed of dozens of stakeholders from various industries, schools, and community groups, a direct relationship with the President.

Despite the DEQ's community-centered outreach, however, Regan's work in North Carolina also raised red flags for some advocates who claim that he sometimes favored industry over public health.

Lisa Ramsden, a Greenpeace senior climate campaigner in North Carolina, said that Regan developed a "mixed record on environmental justice issues" by failing to protect communities from the health impacts of living near hog farms, which are major polluters in the state. She also cited his approval of many operating permits for carbon-intensive wood pellet mills, which can emit harmful pollutants like particulate matter and nitrogen oxides. One 2018 study found that every wood pellet mill in North and South Carolina was located in a low-income community of color; in North Carolina the facilities are concentrated in the rural northeastern corner of the state.

"Going forward, Regan and the rest of the Biden-Harris administration need to pair their lofty rhetoric on environmental justice with consistent action," said Ramsden. (The Biden-Harris administration did not respond to Grist's requests for comment.)

A logging truck enters a wood pellet plant in Ahoskie, NC. Joby Warrick / The Washington Post via Getty Images
Elizabeth Haddix, a managing attorney at the Lawyers' Committee for Civil Rights Under Law, concurred with Ramsden. She faulted Regan for renewing permits allowing hog farms to use older manure management systems that often lead to liquefied manure flowing over into nearby waterways.

Haddix was a lead attorney in a lawsuit against Regan's DEQ, alleging that the state's general permitting process for hog farms disproportionately burdened communities of color, which are more likely to be concentrated around the farms. The settlement required that the DEQ implement at least one year of ambient air quality and surface water monitoring in and around Duplin County, the region most heavily affected by pollution from swine waste. It also mandated that the DEQ publish an annual report with data from hog farm activity about the number of community complaints, DEQ investigations, and resolutions or fines levied.

The day after the lawsuit was settled, Regan announced the formation of the Environmental Justice and Equity Board, marking the start of a more community-centered approach to the agency's work, in some advocates' eyes. Nevertheless, the permits allowing hog farmers to continue using older and more polluting waste management systems continued.

"When we asked his agency to deny permits to facilities using this system, which were located in communities that are predominantly people of color, he told us that he couldn't," Haddix told Grist.

Instead of canceling permits, Regan has fined several farms for hundreds of thousands of dollars cumulatively for pollution in the year since the lawsuit concluded. Though he recently dropped a $90,000 fine on a polluting hog farm — the biggest fine for a North Carolina hog farm since 2012 — hog industry representatives publicly applauded Regan's nomination to head the EPA and thanked him for supporting the industry.

"We look forward to working with him on issues of importance to U.S. pork producers, as we continue to produce the highest-quality, most affordable, and nutritious protein in the world," said National Pork Producers Council President Howard Roth in a public statement.

Haddix believes that Regan's friendly relationship with hog farmers was a result of their economic importance to the state: The industry employs nearly 20,000 people. She hopes he'll "stand in his boots and take the courageous positions" in his new position.

Muhammed agreed, and she emphasized that the fight for environmental justice in North Carolina began before Regan and will continue after he's gone.

"We're still having meetings with [DEQ] about permits where they are not considering the cumulative impact, as well as the disproportionate impact on environmental justice communities," she said. "We just have to get them to understand that enough is enough. If somebody already owns five toxic sites, why do they need a sixth?"

Overall, Muhammed is pleased with Regan's transformation of the DEQ and is excited to see equity and justice being valued by national leaders.

"There's got to be some teeth to the leadership and changemakers over at the EPA for them to be able to make the decisions that we'll need to protect the people and environment in this country," she added. "[Regan] is well-able to do the job, and we in North Carolina are excited for him."

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NC State News - Frey Selected for EPA Science Policy Post
https://news.ncsu.edu/2021/02/frey-epa-appointment/
February 3, 2021
blue sky

FOR IMMEDIATE RELEASE
Matt Shipman
matt_shipman@ncsu.edu

North Carolina State University engineering professor Chris Frey has been appointed Deputy Assistant Administrator for Science Policy in the U.S. Environmental Protection Agency's Office of Research and Development.

The Office of Research and Development is the scientific research arm of EPA. Its research informs EPA decisions and supports the emerging needs of EPA stakeholders, including state, tribal, and community partners.

Frey is the Glenn E. and Phyllis J. Futrell Distinguished University Professor in NC State's Department of Civil, Construction, and Environmental Engineering (CCEE). His research includes measurement and modeling of human exposure to air pollution, measurement and modeling of vehicle emissions, probabilistic and sensitivity

analysis methods, and probabilistic assessment of power generation environmental technologies. Frey will be taking a leave of absence from NC State during his tenure at EPA.

"Chris is a great choice to serve in EPA's Office of Research and Development," says Morton Barlaz, professor and head of the CCEE department. "He has a demonstrated track record of leadership in developing science-based recommendations for environmental policy as part of EPA's Science Advisory Board. It is an honor to have one of our faculty selected for such an important public service position."

Frey's track record at EPA includes serving as member of the agency's Clean Air Scientific Advisory Committee (CASAC) from 2008-2012; as chair of CASAC from 2012-2015; and as a member of the EPA Science Advisory Board from 2012-2018.

In 2018 and 2019, Frey played a role in convening an independent panel of experts to review science related to EPA's assessment of the National Ambient Air Quality Standard for particulate matter.

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WOSU - Activists Petition The Environmental Protection Agency To Clean Up The Ohio River
https://radio.wosu.org/post/activists-petition-environmental-protection-agency-clean-ohio-river#stream/0
By CHRIS WELTER • 14 HOURS AGO

Activists recently petitioned the Environmental Protection Agency to clean up the Ohio River.

The petition calls for federally mandated numeric water quality standards. The nine groups say standards would reduce the amount of nutrients like nitrogen and phosphorus that are discharged into the Ohio River. Those chemicals can cause harmful algal blooms that affect drinking water. Attorney Hank Graddy is the Chair of the Sierra Club's Kentucky Water Team. He says algal blooms can also harm the economy of cities along the river.

"With the 2019 algae blooms, from an economic point of view, a paddle event in Cincinnati was canceled." He said, "and the city of Louisville lost one of the legs of their Ironman competition, which may put in jeopardy the men's competition coming back to Louisville."

Since the Biden administration took office last month, there is renewed hope among environmental groups that increased federal regulation is coming.

Environmental reporter Chris Welter is a corps member with Report for America, a national service program that places journalists into local newsrooms.

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Science: Death of EPA's controversial 'censored science' rule delights researchers
https://www.sciencemag.org/news/2021/02/death-epa-s-controversial-censored-science-rule-delights-researchers
By David Malakoff
Feb. 3, 2021 , 11:00 AM

Science and environmental groups are celebrating triumph in their nearly decadelong battle against efforts to limit the kinds of scientific evidence that the Environmental Protection Agency (EPA) can use in writing new regulations.

A federal judge this week killed a controversial rule, issued late in former President Donald Trump's administration, that would have allowed EPA to ignore or downplay data from human health studies resting on confidential medical information that is difficult to make public. The agency has long relied on such nonpublic data in developing new regulations to limit air and water pollution or reduce exposure to toxic substances such as

workplace chemicals and cigarette smoke. Conservatives and some companies had long pushed to restrict the practice. But the Trump administration's bid to do so violated procedural rules, ruled Judge Brian Morris of the U.S. District Court of Montana in a lawsuit brought by three environmental groups.

The 1 February ruling, which President Joe Biden's administration has welcomed, "is fantastic news. … I think this puts a stake through the rule's heart," says Andrew Rosenberg, director of the Center for Science and Democracy at the Union of Concerned Scientists, which helped lead the opposition to the rule. "It was a terrible, unjustified idea that never should have plagued us for so long, and the judge recognized that."

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The Trump rule, issued 5 January, marked the culmination of a long-standing effort by industry groups and Republicans in Congress. One early goal was to prevent regulatory agencies from using data indicating harm from exposure to second-hand cigarette smoke. The focus later shifted to data collected during large, multicity epidemiological studies that revealed the health toll of air pollutants, particularly tiny particles produced by the burning of fossil fuels. These studies included detailed data about specific people—such as medical records—that could not be released to the public because of privacy and legal concerns. Industry groups and their allies argued that limitation meant outside groups could not adequately review or replicate the studies. They launched an array of legal and legislative campaigns designed to force agencies and researchers to divulge confidential data, and to prevent federal regulators from using what they dubbed "secret science."

Those campaigns, however, often ended in failure. Even when Republicans controlled Congress, for example, backers of secret science bills failed to attract enough support to enact them into law. But their efforts gained new life when Trump took office in 2017. His EPA appointees began an internal effort to write a new policy—which they called a "transparency" policy—that would bar the agency from using data that were not publicly available.

Those efforts quickly faced complications and fierce opposition. For example, both agency staff and industry officials reviewing early drafts of the proposal raised concerns that it would have unintended consequences for companies, perhaps barring EPA from using confidential industry-generated data needed to approve new pesticides and industrial chemicals. Many firms did not want to be forced to divulge what they consider to be trade secrets.

Science advocacy and environmental groups, meanwhile, began an intensive campaign against what they called the "censored science" rule. It was little more than a thinly veiled attempt to "help big polluters avoid regulations that protect human health," the American Thoracic Society, a medical group, warned at the time. A draft transparency rule EPA released in 2018 drew more than 500,000 comments expressing concerns. Even other federal agencies, including the Department of Defense, worried the rule might affect their ability to protect the environment and human health and would be costly to implement.

In March 2020, EPA released a revised version that attempted to sidestep much of the criticism. Opponents, however, argued it was even worse than the original. In particular, they asserted that it greatly expanded the kinds of research affected by the rule, and gave EPA officials far greater discretion in deciding what kinds of findings the agency could and could not use.

Once again, EPA received a cascade of critical comments. But the agency largely ignored that input when it released the final version early last month. And many critics argued the agency made questionable legal claims in asserting it could impose the policy immediately, before the new administration took power, without the usual 30-day waiting period for new regulations. In essence, EPA argued the policy simply spelled out internal "housekeeping" measures, so it was exempt from the procedural requirements and from review by Congress.

Three groups—the Environmental Defense Fund (EDF), the Montana Environmental Information Center, and Citizens for Clean Energy—immediately went to court to challenge EPA's claims. On 27 January, they won a

preliminary skirmish when Morris delayed implementation of the policy until 5 February, giving him time to consider other aspects of the case. On Monday, 1 day after the Biden administration signaled it was siding with the environmental groups, Morris went further, ruling that EPA had no legal authority to issue the policy. The agency "lacked authorization to promulgate the rule pursuant to its housekeeping authority, which is the only source of authority [it] identified," Morris wrote.

Opponents were jubilant. The "censored science rule was a flagrantly unlawful attempt to restrict EPA from using important scientific studies," said EDF senior attorney Benjamin Levitan in a statement. "We're glad the court recognized that and put a stop to it."

Technically, the policy has been vacated and returned to EPA for another rewrite. But that's unlikely to happen within the next 4 years: EPA spokesperson Lindsay Hamilton told The Washington Post the Biden administration has already signaled it has no interest in limiting the ability of federal agencies to use "the best available science."

Still, some supporters of the Trump rule hope the Biden administration will preserve elements of the rule. "The decision is unfortunate but does not change the goal of the science transparency rule, which I would urge the new administration to support: Enhance the public trust in agency actions and improve regulatory outcomes," Mandy Gunasekara, who was a senior EPA official under Trump, told the Post.

Rosenberg, for one, says it's hard to believe the saga is truly over for now. In the past few years, he's trekked to Capitol Hill at least three times to testify before Congress against the policy, and has spent countless hours helping organize the opposition. "It's been such a zombie proposal, it's just gone on, and on, and on," he says. "So, I'm always worried it will rise again."

But he also says the Montana decision "shows the power of science advocacy." The EPA policy was technical and relatively obscure, Rosenberg notes, "and could have just slipped by. … But by being engaged and speaking out, even when it seemed like nobody was listening, [the research community] made a difference. Without that, it would have been much tougher to make the case that this was misguided. I mean, in the middle of a pandemic, we're arguing over whether epidemiological evidence is worthy of consideration? Really?

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National Law Review - TRANSITION THOUGHTS: How Will President Biden's Elevation of Environmental Justice Within the EPA Affect Your Permitted Facility or Redevelopment Project?
https://www.natlawreview.com/article/transition-thoughts-how-will-president-biden-s-elevation-environmental-justice

Wednesday, February 3, 2021

The Biden administration continues to make many major environmental policy actions aimed at climate change, enforcement, and several other issues. GT continues to track these changes in key areas on our E2 Law Blog, including this one on environmental justice through our "Transition Thoughts" series.

President Joe Biden is expected to sign an executive order that will elevate environmental justice within the U.S. Environmental Protection Agency (EPA) by establishing two environmental groups: The White House Environmental Justice Advisory Council and the White House Environmental Justice Interagency Council. Both groups are expected to report to the Chair of the White House Council on Environmental Quality, which will report directly to the president. The two groups will revisit the Executive Order 12898 on environmental justice, signed in 1994 by former President Bill Clinton.

As you may recall from my previous posts, Executive Order 12898 does not create any legal cause of action; however, it does weave environmental justice awareness throughout the federal government, requiring EPA to consider how its siting, permitting, and enforcement decisions impact the health of poor people and people of

color. The regulated community should expect an overhaul of the EPA's External Civil Rights Compliance Office and a prioritization of investigations of complaints under Title VI of the 1964 Civil Rights Act by "fenceline communities," those minority and poor communities located adjacent to pollution sources.

Regarding the EPA cleanup and redevelopment programs such as the Brownfields, Superfund, and RCRA programs, businesses should expect EPA to create regulatory incentives to promote more equitable distribution of economic benefits in minority and low-income communities where cleanup and redevelopment projects are proposed. In addition to economic benefits, EPA will have a renewed focus on enforcement of environmental cleanup standards and regulations within poor and minority communities.

Industry should also expect a "reboot" of the EPA's EJSCREEN tool, which is an EPA internet database, readily available to the public, that identifies communities living proximately to multiple, permitted pollution sources. Business can access this tool to identify "fenceline communities" located adjacent to existing or proposed permitted facilities such as manufacturing facilities, gas stations, power plants, paper mills, and other permitted operations that are sources of permitted air and water pollution.

Finally, the regulated community should expect to see more state legislation focused on environmental justice and siting decisions such as in New Jersey and proposed federal environmental justice legislation to reinstitute Title VI private right of action written out in the United States Supreme Court's 2001 decision in Alexander v. Sandoval. Prudent businesses should take certain precautionary actions now to prepare for the potential impact of state and federal environmental justice policy on permitted facilities and redevelopment projects.

Best, R.

Robert Daguillard
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Washington, DC
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Message

From: E&E News [ealerts@eenews.net]
Sent: 2/17/2021 12:33:56 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: February 17 -- Energywire is ready

Energywire -- The Transformation of the Energy Sector

Read today's Energywire on the web

ENERGYWIRE

AN E&E NEWS PUBLICATION

ENERGYWIRE — Wed., February 17, 2021

READ FULL EDITION

1. ELECTRICITY:
Blackout crisis: The fallout, furor and fact checks

Fallout from sweeping winter power outages echoed from Texas to the White House yesterday, as power restoration commingled with debates about whether to blame renewables or fossil fuels.

TOP STORIES

2. Q&A:
Southern CEO on Biden, 'energy justice,' 100% clean power

3. TRANSITION:
Green bank expert joins Biden climate team

4. ELECTRICITY:
Interior issues first-ever West Coast lease for wave energy

ENERGY TRANSITIONS

5. NUCLEAR:
'Critical moment.' Groups press Biden for advanced reactors

LAW

6. NATURAL GAS:
Groups nix lawsuit after failing to stop $2B Texas pipeline

ELECTRICITY

7. ELECTRIC VEHICLES:
Luxury car brand Jaguar to go all-electric by 2025

8. VIRGINIA:

State Senate committee kills electric rate reform bills

OIL AND GAS

9. ENERGY MARKETS:

Russia oil output below quota amid cold Siberian weather

10. PERMIAN BASIN:

Occidental issues force majeure as cold shuts in oil

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Message

From: Agri-Pulse Daily Harvest [sara@agri-pulse.com]
Sent: 2/11/2021 11:25:19 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daily Harvest 2/11/2021

Agri-Pulse Daily Harvest 2/11/2021

Agri-Pulse Daily Harvest

Agri-Pulse Daily Harvest -- 2/11/2021

Here's your daily summary of top news from www.Agri-Pulse.com **and regional headlines from across the country. Do you know someone who should also be on our list? Please ask them to click** here**.**

FARM & RURAL POLICY

Agri-Pulse: Daybreak for February 11, 2021

Link - (Audio) House Ag set to move $16B stimulus; Top R: 'End justifies the means' on climate; EPA nominee heads to Senate floor.

Agri-Pulse: DriveTime: February 10, 2021

Link - (Audio) The House Agriculture Committee held its first hearing of the 117th Congress with fresh priorities and coronavirus relief top of mind.

Agri-Pulse: House Ag Democrats advance ag stimulus package as GOP attacks minority farmer debt relief

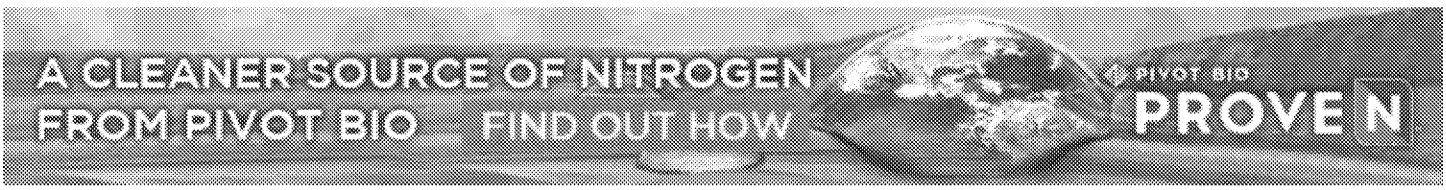
Link - Democrats forced a $16.1 billion agriculture stimulus plan through the House Agriculture Committee on Wednesday, brushing aside Republican assertions that a provision providing debt relief for minority farmers was far too broad and could face legal challenges.

Agri-Pulse: House Ag adds Democratic members

Link - The panel charged with addressing farm and food policy in the House of Representatives is adding four new Democrats and bringing one more member with previous experience back to the committee.

Reuters: U.S. lawmakers introduce legislation to help Black farmers

Link - Lawmakers introduced two bills to help minority farmers this week, aiming to address longstanding injustices in the agricultural sector.



ENERGY

Reuters: Biden's EPA pick to review options for biofuel blending law beyond 2022

Link - U.S. President Joe Biden's pick to lead the Environmental Protection Agency said he will confer with legal and policy teams to understand the options available for setting mandates to blend biofuels into the nation's fuel mix beyond 2022.

KITV Honolulu: One third of Oahu homes now solar powered

Link - Oahu's solar industry has been bright spot for Hawaii, during the darker economic times of the pandemic.

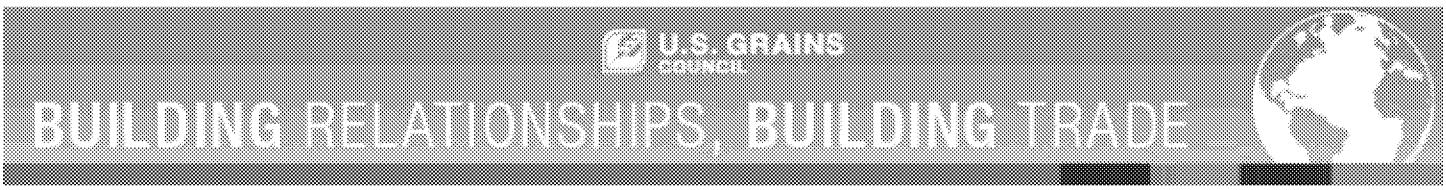
pdclarion.com: Lawmakers eye statewide standards for commercial wind, solar energy

installations

Link - The Indiana General Assembly is poised to replace the hodgepodge of county wind and solar power regulations with statewide standards aimed at providing regulatory certainty to landowners, power generators, and utilities.

News Center Maine: Solar developers hopeful CMP change will prevent huge cost increases

Link - CMP Chairman David Flanagan sent a letter Wednesday explaining why the estimates for upgrading existing substations to handle solar power were initially so high.



FOOD & NUTRITION

Agri-Pulse: United Fresh seeking compensation info

Link - The United Fresh Produce Association has launched its latest survey of compensation information for the fresh produce industry.

Agri-Pulse: In combating citrus greening and its insect host, California has a leg up

Link - Despite a widespread invasion of Southern California by the host insect for citrus greening, the San Joaquin Valley has been able to beat back the bug.

Agri-Pulse: Southern California fruit harvests see various pandemic impacts

Link - Picking California's citrus crops typically involves a single worker per tree, a naturally socially-distant practice that has lessened the pandemic's impact on harvests.

Forbes: Puris Holdings And LIVEKINDLY Collective Form Joint Ventures To Invest In Regenerative Agriculture And Plant-Based Food

Link - Puris Holdings, a pure play in the plant-based food ingredients sector, and LIVEKINDLY Collective has announced two separate joint ventures to invest in regenerative agriculture and plant-

based food.

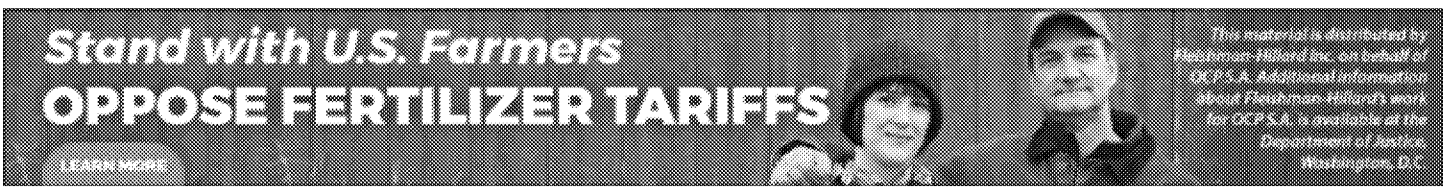
ABC News: Aunt Jemima announces new name, removes 'racial stereotypes' from product
Link - Aunt Jemima is getting a new name, new logo and new look after announcing that it would be dropping the brand name following criticism that it featured a caricature of a Black woman that was a racist stereotype.

The Hill: DoorDash to provide nearly 30,000 discounted COVID-19 tests to restaurant partners
Link - Food delivery service DoorDash announced on Wednesday that it will provide almost 30,000 discounted COVID-19 tests to restaurant owners with three or fewer locations.

Grand Forks Herald: Minnesota's Seeds Feeds persists in the fight against food insecurity
Link - Seeds Feeds is a nonprofit that focuses on using urban agriculture to fight food insecurity in neighborhoods surrounding the Twin Cities.

Reuters: Uber expands food delivery further, sees ride demand pick up
Link - Uber Technologies Inc on Wednesday posted a narrower loss as its ride-hail and delivery businesses rebounded slightly from pandemic lows, and the company said it was well on track to reach its goal of achieving an adjusted profit by year-end.

Vogue: Zero Grocery Is the Sustainable Online Supermarket That Aims to Make Your Life Less Plastic
Link - Founded by Strasner in 2018, it's America's first plastic-free online grocery—and aims to make it easier for everyone to live a sustainable life.

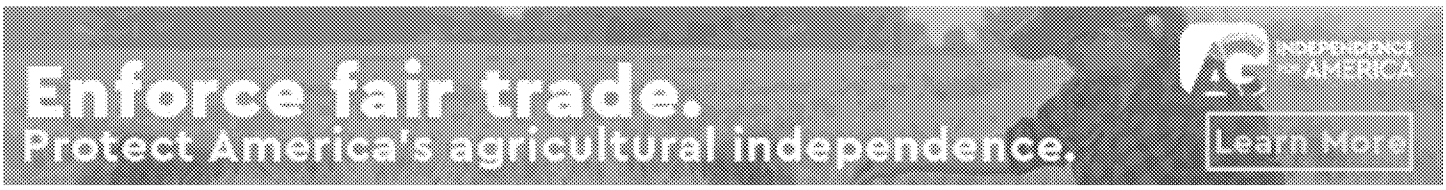


TRADE & INTERNATIONAL

Reuters: India's Modi invites protesting farmers for talks on farm bills
Link - Indian Prime Minister Narendra Modi on Wednesday invited protesting farmers for talks to address growers' concerns about three new agricultural laws that seek to deregulate the country's vast farm sector.

EURACTIV: German lawmakers call for ending exports of banned pesticides
Link - Pesticides that are currently banned in Europe may still be exported to foreign countries, an issue which highlights the EU's lack of coherence, according to the leftist Die Linke and the Greens. EURACTIV Germany reports.

The Hindu: 'Push to improve agriculture infrastructure will boost growth'
Link - The Central Government's thrust to improve agriculture infrastructure will lead to higher growth and more exports, Chairman of National Bank for Agriculture and Rural Development (NABARD) G.R. Chintala told journalists after delivering the inaugural address at the 80th Annual Conference of Indian Society of Agricultural Economics at the Tamil Nadu Agricultural University here on Wednesday.



LABOR & IMMIGRATION

newsdakota.com: NASDA Seeks Flexibility to Protect Farm Workers, Specialty Crop Industry
Link - The National Association of State Departments of Agriculture this week asked the Department of Agriculture for more flexibility in the use of Specialty Crop Block Grants.

TimesLIVE: Enforced wage hike for farmworkers: concern it may lead to job losses, food price increases
Link - The increase in the national minimum wage, with effect from March 1, is likely to lead to further

job losses in the agricultural sector.

Eagle-Tribune: Biden urged to repeal immigration rule
Link - Immigrant rights groups want the Biden administration to rescind a policy that requires people seeking to live in the U.S. to show they won't be a burden on taxpayers, saying the regulations hurt families seeking health care, housing and other public assistance.

CONSERVATION & WILDLIFE

Agri-Pulse: Syngenta boasts 5% feed efficiency boost in Enogen corn trait
Link - Beef producers can achieve feed efficiency gains of about 5% by using Enogen corn, a new lifecycle assessment released by Syngenta Seeds and the University of Arkansas Resiliency Center (UARC) has found.

Agri-Pulse: While farms and cities make good water partners, they'll keep their options open
Link - Coastal cities and farming regions can maximize supplies by teaming up. And it could help with critical infrastructure funding and upgrading water trading policies.

Texas Tribune: Texas House Democrats launch climate, environment caucus
Link - The climate, environment and energy caucus aims to start a conversation in the Legislature on how Texas can prepare for climate change and take advantage of the transition to cleaner energy sources.

Deseret News: Air is getting cleaner, but Utah legislators still driving 22 clean air proposals
Link - Air quality issues remain a top priority in Utah despite recent energy sector improvements.

NBC2 News: City of Fort Myers facing $500k fine for dumping wastewater into waterways

Link - The City Of Fort Myers is allegedly facing a fine of more than $500,000 for the "repeated discharge of wastewater" into Billy's Creek and Caloosahatchee River.

MISCELLANEOUS

CNN: When he couldn't find healthy options for his family during the pandemic, a dad turned his backyard into a farm

Link - It was the start of the coronavirus pandemic when meat and eggs began to disappear from the aisles of Vincent Padgett's local grocery store.

WTVD-TV: Former NFL star leaves $37.5 million contract behind to run farm in Louisburg, North Carolina

Link - At just 26-years-old, Jason Brown became one of the highest paid centers during his career. But he soon realized he had a calling of faith to work the land and feed the hungry.

Associated Press: Herd of calves stroll Indiana highway after escaping a farm

Link - A herd of about 75 Holstein calves barreled down an Indiana highway after escaping a nearby farm.

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From: Kim, Eun [Kim.Eun@epa.gov]
Sent: 2/19/2021 9:53:22 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: READING: Materials for Monday, February 22, 2021
Attachments: 2019-Tribal-Air-Infographic.pd.pdf; EtO Sterilizers Briefing (Part 2)_02.22.21_OAR.docx; NTAA Executive Committee Members.docx; NTAA-EPA Meeting Agenda Virtual 2.21.pdf; Oil and Gas Project Blueprint.docx; 12.14.20 NTAA Letter to Biden Harris Transition Team.pdf

Goffman, Joseph Calendar
Goffman.Joseph@epa.gov
On Monday, February 22, 2021
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

February 2021

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	**22**	23	24	25	26	27
28						

Busy — Tentative — Free
Out of Office — Working Elsewhere — Outside of Working Hours

February 2021

Mon, Feb 22

	Before 8:00 AM	**Free**
	8:00 AM – 10:30 AM	**Free**
	10:30 AM – 11:00 AM	Bi-weekly Oil and Natural Gas (O&G) Sector Meeting (materials attached, 1 doc)
	11:00 AM – 11:30 AM	Budget Process and OMB Engagement
	11:30 AM – 12:15 PM	OAQPS Weekly
	12:15 PM – 12:45 PM	Lunch/Management time
	12:45 PM – 1:00 PM	**Free**
	1:00 PM – 2:00 PM	HOLD || RFS Rollout briefing call (elected officials)
	2:00 PM – 3:00 PM	Senior Staff Meeting
	3:00 PM – 3:45 PM	NDC Strategy Discussion
	3:45 PM – 4:00 PM	**Free**

■	4:00 PM – 4:30 PM	EtO Sterilizers Briefing (Part 2) (materials attached, 1 doc)
■	4:30 PM – 5:00 PM	Meeting with Chris Miller re: ERINS & LCFS
■	5:00 PM – 5:45 PM	NTAA Pre Brief (materials attached, 3 pdfs & 1 doc)
□	**5:45 PM – 6:00 PM**	**Free**
■	6:00 PM – 10:30 PM	HOLD || Unavailable
□	**After 10:30 PM**	**Free**

Eunjung Kim
Special Assistant
Office of Air and Radiation
(202) 815-7252

NTAA EC VIRTUAL MEETING AGENDA

February 22 – 25, 2021

Times of Meeting Each Day: 1 pm – 4 pm ET
(Agenda below based on ET time)
Join each day using this GoToMeeting Link
If you cannot join online, you can call into this telephone number:
Ex. 6 Personal Privacy (PP) **with Access Code:** Ex. 6 Personal Privacy (PP)

MONDAY, February 22, 20211-4 pm ET: NTAA EC, NTAA staff and Invited Guests

- **1:00 pm – 2:00 pm Opening Session**
  - Welcome and Introductions
  - Review and Approve Agenda
  - Review Talking Points for each EPA office:

- **2:00 pm – 2:15 pm Take a 15 minute break**

- **2:15 pm – 3:00 pm: American Lung Association**
  Invited guests include: Laura Kate Bender and Liz Mueller
  - Updates on ALA's work on air quality and climate change
  - ALA's Recommendations for NTAA's meeting with EPA leadership
  - Open Discussion

- **3:00 pm – 4:00 pm: National Association of Clean Air Agencies**
  Invited guests include: Miles Keogh with other NACAA staff he invites.
  - Updates on NACAA's work on air quality and climate change
  - NACAA's Recommendations for NTAA's meeting with EPA leadership
  - Open Discussion

- **4:00 pm: End of Meeting**

TUESDAY, February 23, 2021 1-4 pm ET: NTAA EC, NTAA Staff, Ex-Officio, OAR Senior Tribal Program Coordinator and Invited Guests (who may also bring EPA staff not listed below that they wish to join)

- **1:00 pm – 2:00 pm: U.S. EPA's Office of Air and Radiation (OAR)**
  Invited guests include:
  Michael S. Regan, Janet McCabe, Joe Goffman, Alejandra Nunez , Tomás Elias Carbonell, Betsy Shaw and Pat Childers.
  - Introductions
  - Introductions of NTAA
  - Review of NTAA STAR Recommendations and AQ Priorities
  - Discussion of EPA's new air quality priorities
  - Discuss how NTAA can help meet new priorities
  - Invitations to NTFAQ

- **2:00 pm – 2:45 pm: U.S. EPA's Office of Air Quality Planning and Standards (OAQPS)**
  Invited guests include:
  Tomás Elias Carbonell, Peter Tsirigotis, Anna Wood, James Payne, Laura McKelvey and others from OAQPS
  - Introductions
  - Follow up on action items from previous meeting with Director Tsirigotis
  - Focus on stationary sources.
  - Discussion of upcoming rules
  - Open Discussion

- **2:45 pm – 3:00 pm: 15 min break**

- **3:00 pm – 4:00 pm: U.S. EPA's Office of International and Tribal Affairs (OITA)**
  Invited guests include:
  Jane Nishida, JoAnn Chase, Lisa Berrios and Andy Byrne
  - Introductions
  - Update on OITA's Tribal focus of new administration
  - Follow up on GAO reports and EO on Tribal Consultation
  - Update on NTAA air quality priorities
  - Discussion how to better highlight air issues with the NTC

WEDNESDAY, February 24, 2021, 1-4 pm ET: NTAA EC, NTAA Staff, Ex-Officio, OAR Senior Tribal Program Coordinator and Invited Guests (who may also bring EPA staff not listed below that they wish to join)

- **1:00 pm – 1:45 pm: U.S. EPA's Office of Transportation and Air Quality (OTAQ)**
  Invited guests include:
  Alejandra Nunez, Sarah Dunham, Jessica Mroz and Lucita Valiere
  - Introductions
  - Update on Tribal DERA Program
  - Discussion of success of Mobile Sources Work Group and VW Settlement
  - Update on Rules and EO that NTAA has commented on previously

- **1:45 pm – 2:30 pm: U.S. EPA's Office or Radiation and Indoor Air (ORIA)**
  Invited guests include:
  Jon Edwards, Dave Rowson, Nate McMichael, Secody Hubbard and Allison Reibach (R8 Staff)
  - Introductions
  - What are ORIA's IAQ priorities with Tribes?
  - How can ORIA and NTAA partner better together to advance IAQ in Indian Country?
  - Update on Radon grants for Tribes
  - Update on EPA's Tribal IAQ Training and Resource Directory

- **2:30 pm – 2:45 pm: 15 Minute Break**

- **2:45 pm – 3:30 pm: U.S. EPA Office of Atmospheric Programs (OAP)**
  Invited guests include:
  Chris Grundler, Erica Bollerud and Taylor Macy
  - Introductions
  - CASTNET Update
  - What is OAP's role in climate priorities under the new administration and how can NTAA help.
  - CSAPR Update
    - Acknowledge efforts at consultation in response to NTAA's comments
  - Other Updates from OAP

- **3:30 pm – 4:15 pm: U.S. EPA's Office of Environmental Justice (OEJ)**
  Invited guests include:
  Matt Tejada and Danny Gogal
  - Introductions
  - Discussion EJ Webinar Planning

- Update on how EPA has shifted EJ as a priority and how does that balance with govt. to govt. relations with Tribes
- Open Discussion

THURSDAY, February 25, 2021, 12:30-4:00 pm ET: NTAA EC Members, NTAA Staff, Ex Officio and OAR Senior Tribal Program Coordinator.

- **12:30 pm – 1:00 pm Tribal Caucus for NTAA EC Members Only**
  - Vote for NTAA Officers (if needed)

- **1:00 pm – 2:45 pm: NTAA Business**
  - Approval of any membership applications and form
    - Jamul Indian Village's Tribal Council
  - NTAA Budget Review
  - Review of NTAA website
  - Review of NTAA tasks
    - TAS outreach
    - EC videos
    - Baseline Needs Assessment
    - Mobile App
  - NTAA Policy Response Kits
  - Debrief Virtual Meeting and confirm action items

- **2:45 pm – 3:00 pm: 15 minute break**

- **3:00 pm – 4:00 pm: Conference Call with NTAA Member Tribes**
  - Member Call Agenda
    1. Welcome and Roll Call
    2. Summary of NTAA EC Virtual Meeting with EPA Leadership
    3. Updates on NTAA work and NTAA work groups:
       A. IAQ
       B. Mobile Sources
       C. Wood Smoke
       D. STAR
       E. NTFAQ
    4. NTAA Member Tribe Feedback
    5. Adjourn

4:00 pm – 6:00 pm: NTAA/EPA Air Policy Update Call

www.NTAATribalAir.org
928.523.0526 office
928.523.1266 fax

National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004

Executive Committee
Region 1
Bill Thompson
Penobscot Nation

Marvin Cling
Passamaquoddy Tribe

Region 2
Angela Benedict
Saint Regis Mohawk Tribe

Steven Smith
Shinnecock Nation

Region 4
Scott Hansen
NTAA Treasurer
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Tiffany Lozada
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Allison Gienapp
Ponca Tribe of Nebraska

Region 8
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Linda Weeks-Reddoor
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Region 10
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NTAA Secretary
Kootenai Tribe of Idaho

Lucas Bair
Spokane Tribe

Alaska
Ann Wyatt
Klawock Cooperative Association

Maranda Hamme
Craig Tribal Association

December 14, 2020

Patrice Simms
Amanda Aguirre
Lisa Garcia
Alejandra Nunez
President-elect Biden and Vice President-elect Harris Administration's Agency Review Team
Via Email

Re: The National Tribal Air Association's Welcome and Recommendations Related to Tribal Air Quality Policies and Programs

Dear Mr. Simms, Ms. Aguirre, Ms. Garcia, and Ms. Nunez:

Congratulations on winning the election! We sincerely look forward to working with you all. I am writing to introduce you to the National Tribal Air Association (NTAA) and invite you to meet with our Executive Committee and staff to discuss the air quality policy recommendations listed below.

The NTAA is a member-based organization created in 2002 and is funded by USEPA. Tribal membership to the NTAA has grown by over 73% to 151 principal member Tribes, and expanded to include associate members as well. The NTAA continues to fulfill its mission to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of Indian Tribes. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is important to understand interactions with the organization do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Indian Tribes.

The NTAA Executive Committee (EC) typically meets with EPA administration three times each year, and hosts monthly conference calls with EPA and other federal representatives/staff and Tribes across the country to disseminate pertinent information related to air quality, air policies, and impacts to Tribes.

www.NTAATribalAir.org
928.523.0526 office
928.523.1266 fax

National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004

The NTAA supports strong air quality regulations, and, when funded adequately, Tribes can help improve the nation's air quality through strong partnerships with federal, state, and local governments.

One of the services that the NTAA provides to both Tribes and EPA is the annual publication of the Status of Tribal Air Report (STAR). The STAR provides a national overview of Tribal air quality programs, including recommendations for EPA, a budget analysis, the importance of Tribal air quality programs for public health, and the priorities of Tribal air quality programs across the nation.

The 2020 STAR[1] included the following six recommendations, each of which is explained more fully in the STAR:

1. **Uphold Tribal sovereignty**. This includes appropriate allocation of funds, engagement in government-to-government consultation, upholding trust responsibility, and responding to Tribal requests in a timely manner.
2. **Increase funding for Tribal air quality programs**. Funding for Tribal air quality programs has seen a dramatic decrease since 2012, while the number of federally recognized Tribes in the nation has increased, cost of living and health care has increased, wildfire threats to air quality have ballooned, and air monitors and infrastructure have aged. A recent GAO report[2] on Tribal Air quality monitoring affirms this recommendation.
3. **Greater support for Alaska.** With over 40% of federally recognized Tribes residing in Alaska, often in remote locations and experiencing significant impacts from both air quality and climate change, American Indians and Alaska Natives have significant and specific needs for increased funding and assistance for air programs and climate change adaptation planning.
4. **Conduct Air Quality Needs Assessment.** A comprehensive air quality needs assessment would give the federal government a better understanding of the complex and unique issues Tribes face today. The NTAA has consistently made this request since 2016 and pursuant to budget availability due to current conditions; the NTAA has now authorized implementation to develop an air quality baseline needs assessment in Indian Country.
5. **Facilitate partnerships.** Partnerships between Tribes, states, and other established air quality entities should be encouraged and funded.
6. **Greater support for emerging wildfire threats.** Wildfires are increasing in frequency and intensity, leading to ambient and indoor air pollution, and emergency management responses such as evacuations. Increased funding, staffing, and training are all essential components to maintain human health in the face of this immediate concern.

[1] https://www.ntaatribalair.org/status-of-tribal-air-report/
[2] https://www.gao.gov/products/GAO-21-150

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The 2020 STAR also included an appendix titled *A White Paper Detailing the Science and Connections between Air Pollution, Tribes, and Public Health.*[3] This White Paper highlights the extraordinary successes of the Clean Air Act in decreasing emissions and protecting and improving human health, while economic development has continued to increase. The White Paper utilizes the vast body of peer-reviewed literature to demonstrate the impacts of air pollution on human health, and how smart and stringent regulations not only save lives and improve health but also lead to cost savings.

The NTAA encourages the Biden/Harris Administration to consult with Tribes and the best available science while addressing the following policy considerations:

- Rescind the Affordable Clean Energy rule, and replace it with regulations based on the Clean Power Plan and Clean Energy Incentive Program that include robust renewable energy development for Tribes. NTAA produced a White Paper on the Clean Power Plan found here[4].
- Rescind the SAFE Vehicles and CAFE Standards implemented by the previous administration, and replace them with standards in alignment with the best science available and recently updated California Air Resources Board's (CARB's) vehicle standards. More information can be found from NTAA's comment here[5].
- Provide technical assistance and accelerate processing of Treatment as a State (TAS) approvals without added, non-statutory requirements such as match requirements and boundary determination requirements for Section 105 applications.
    - Non-regulatory TAS review could be streamlined for federally recognized Tribes and allow more efficient access for Section 105 programs and funds. While the previous administration led an effort for a "lean" process, this process was not effective and a new review is needed. The last review of EPA's TAS process was done by GAO in 2005[6], so the time has come to again update this process.
- Reevaluate the PM2.5 NAAQS to reflect the cumulative effects of particulate matter and COVID-19, and set a standard between 30 µg/m3 to 25 µg/m3. NTAA agrees with EPA Staff Policy Assessment that, based on the available scientific evidence in the Integrated Science Assessment (ISA), the current primary standards for PM2.5 are inadequate to protect public health including the health of our citizens (EPA Policy Assessment at 3-106). Tribal communities are comprised of a disproportionate number of citizens at great risk from exposure to particulate matter and the proposal to maintain the primary PM2.5

[3] https://7vv.611.myftpupload.com/wp-content/uploads/2020/05/NTAAs-2020-White-Paper-Detailing-the-Science-and-Connections-Between-Air-Pollution-Tribes-and-Public-Health.pdf
[4] https://7vv.611.myftpupload.com/wp-content/uploads/2019/12/NTAAWhitePaperCPP.pdf
[5] https://7vv.611.myftpupload.com/wp-content/uploads/2019/12/NTAA-SAFE-Vehicle-Rule-Comment-Letter-1.pdf
[6] https://www.gao.gov/assets/250/248335.pdf

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NAAQS fails to protect them. More information can be found from NTAA's comment here[7].

- Revisit and reset the Ozone NAAQS to a standard of 60 ppb. A level of 60 ppb corresponds to the lowest exposure concentration that would minimize severe lung function decrements and reduce the risk of respiratory mortality, but not stop those affects to the at-risk population. Even at 60 ppb, the studies and reports conclude that some asthmatic children would continue to suffer from exposures to ozone at that level, and reduce, but not end, the number of deaths associated with short-term exposures. More information can be found from NTAA's comment here[8].
- Rescind the "Strengthening Transparency in Regulatory Science" rule (if finalized as expected). More information can be found from NTAA's comment here[9].
- Rescind the ruling, "Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process." More information can be found from NTAA's comment here[10].
- Rescind the Amendments to the 2016 NSPS for the Oil and Natural Gas Industry. More information can be found from NTAA's comment here[11].
- Restore EPA's voluntary programs related to IAQ and strengthen the State Indoor Radon Grants program with more robust Tribal inclusion.
- Begin rulemaking to electrify vehicles and phase out internal combustion vehicles similar to CARB's recent Advanced Clean Fleets Program[12].
- If EPA proposes Supplemental Environmental Projects (SEP) in the future, include Tribes at the table during market trading discussions and other SEP-related discussion to provide Tribes with just opportunities and equitable allocations.
- Re-define internal EPA policies on defining "adjacency" and "once in, always in." Again, NTAA provided comment letters that can be found on NTAA's Policy Resource Kit webpage.
- There are many other rules, policies and actions that we would like to discuss but will look forward to further meetings to work together to advance air quality on and off Tribal lands.

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[7] https://7vv.611.myftpupload.com/wp-content/uploads/2020/06/6.29.20-NTAA-Letter-on-EPA-PM-NAAQS-Standard-Review-1.pdf

[8] https://7vv.611.myftpupload.com/wp-content/uploads/2020/10/10.1.20-NTAA-Letter-on-EPA-NAAQS-Ozone-Review.pdf

[9] https://7vv.611.myftpupload.com/wp-content/uploads/2020/05/5.18.20.NTAAs-Comment-Letter-on-Transparency-in-Science-SNPRM.pdf

[10] https://7vv.611.myftpupload.com/wp-content/uploads/2020/08/8.7.20-Letter-to-EPA-from-NTAA-on-Docket-ID-No.-EPA-HQ-OAR-2020-00044.pdf

[11] https://7vv.611.myftpupload.com/wp-content/uploads/2019/12/11.25.19-NTAA-Comment-Letter-on-NSPS-for-ONG.pdf

[12] https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets

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NTAA's website contains all NTAA's Policy Resource Kits that include NTAA's official comments on many of the policies listed above and can be found here[13]. The NTAA encourages the Biden/Harris administration to support the recommendations in the STAR as well as the policy changes put forth in this letter. Tribes stand ready to work with the federal government, and the NTAA looks forward to conversations with the Biden/Harris EPA Administration.

We look forward to scheduling a meeting with your team in the coming week(s). To schedule a meeting and if you have any questions or require clarification on these recommendations, please contact the NTAA's Project Director, Andy Bessler at 928-532-0526, or Andy.Bessler@nau.edu.

Sincerely,

Wilfred J. Nabahe
Chairman
National Tribal Air Association
Executive Committee

[13] https://www.ntaatribalair.org/policy-resource-kits/

Message

From: Erick Lutt [elutt@bio.org]
Sent: 2/8/2021 6:22:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
CC: Tara Billingsley - Jim Massie & Partners, LLC (tbillingsley@massiepartners.com) [tbillingsley@massiepartners.com]
Subject: RE: [-EXTERNAL-] RE: HollyFrontier SCOTUS Case

Hi Joe, thank you for the update on what's going on. I understand how busy things are, so I really appreciate the follow up.

Please let us know if there is anything we can provide you in the meantime and look forward to hearing back on a possible meeting in the future.

All the best,
Erick

Erick Lutt
Senior Director
Biotechnology Innovation Organization
Mobile: 202.701.8153
elutt@bio.org

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From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Sunday, February 7, 2021 5:35 PM
To: Erick Lutt <elutt@bio.org>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Cc: Tara Billingsley - Jim Massie & Partners, LLC (tbillingsley@massiepartners.com) <tbillingsley@massiepartners.com>
Subject: [-EXTERNAL-] RE: HollyFrontier SCOTUS Case

Hi, Erick (and Tara) –

Appreciate hearing from you on this. As you can probably surmise, thanks to the work I was lucky enough to be able to do on the EPA Agency Review Team during the Transition, and the march of time towards February 22, this proceeding is front of mind these days. Rest assured that my new colleagues here have done an outstanding job of bringing the incoming political team up to speed on the case. I will work with the scheduling team here in OAR to see if there's a time when we can connect, but my calendar is already extremely challenging to manage. So, please be patient.

Thank you for getting in touch.

Best,
Joe

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Erick Lutt <elutt@bio.org>
Sent: Thursday, February 4, 2021 12:53 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Tara Billingsley - Jim Massie & Partners, LLC (tbillingsley@massiepartners.com) <tbillingsley@massiepartners.com>
Subject: HollyFrontier SCOTUS Case

Hi Joe,

I hope you're doing well. I thought Secretary Regan's confirmation hearing went well yesterday.

Our member companies have asked for us to reach out to EPA regarding the HollyFrontier small refinery exemption case coming before the Supreme Court.

We understand the small refiners' Petitioners' Brief is due around February 22nd. It's our understanding that the Solicitor General typically requests the views of the Agency several weeks in advance of when the first brief is due.

We are hoping that EPA will reconsider its positions from the 10th Circuit and either file a brief on the side of Respondents, or at a minimum, request an extension from the Supreme Court to give the Agency more time to consider its position. There may also be opportunities for EPA to request that SCOTUS reconsider its grant of cert. We believe doing so would be consistent with the Biden Administration's commitment to promoting biofuels and addressing climate change.

Please let me know if you are available to visit about this further before EPA sends it recommendations over to DOJ.

Thank you for your consideration.

All the best,
Erick

Erick Lutt
Senior Director
Biotechnology Innovation Organization
Mobile: 202.701.8153
elutt@bio.org

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Message

From: Millett, John [Millett.John@epa.gov]
Sent: 3/8/2021 4:06:42 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: access?

I'm sorry – the full article is appended below . . . from what I can tell this is a free site, they just have a prominent ask for donations popping up. *The Guardian* takes a similar approach. But I'll check in with the press office on it just the same.

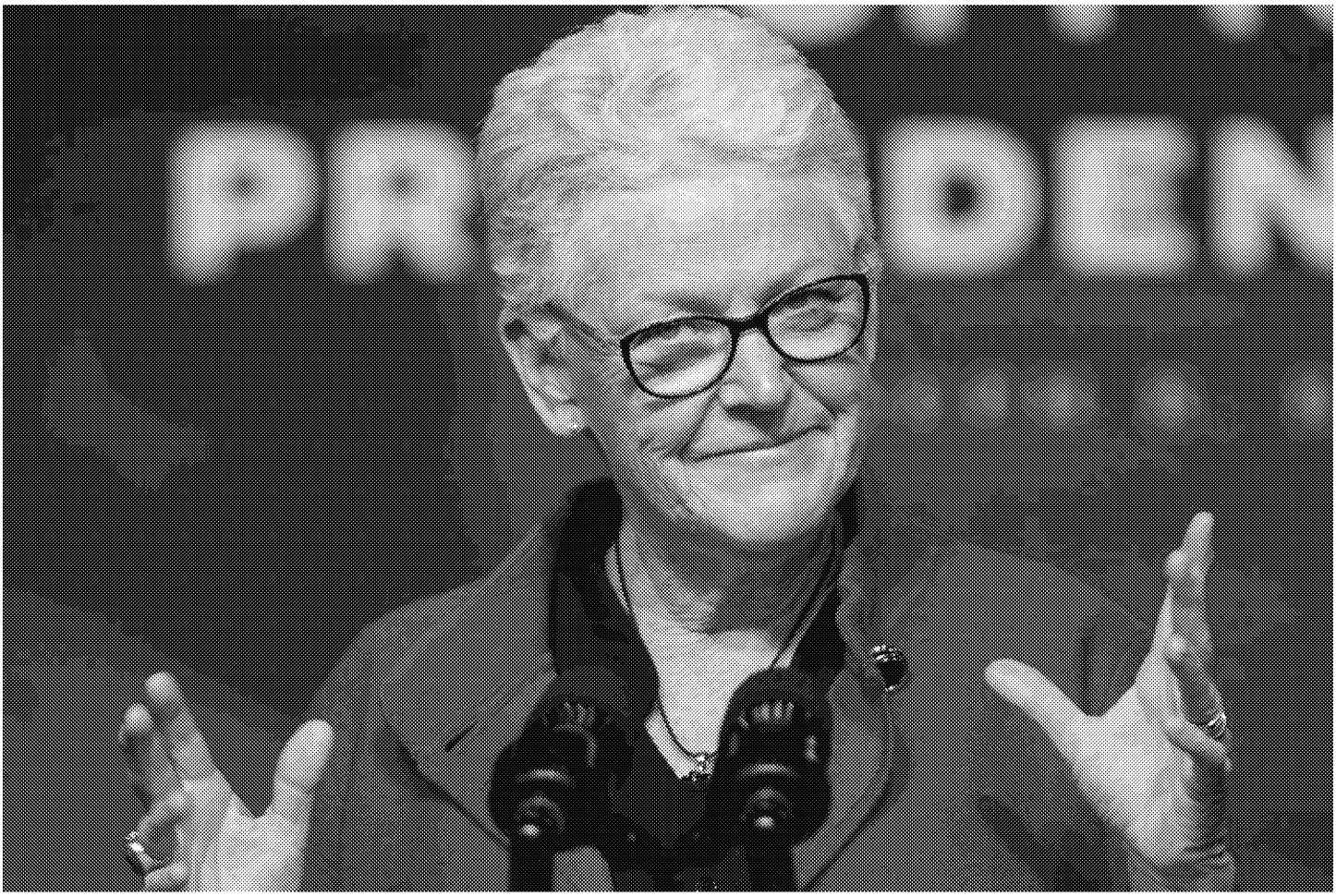
From: Millett, John
Sent: Monday, March 08, 2021 10:50 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: access?

Here's the article – let me check with the press office on our regular access to this site --

The Petroleum Industry May Want a Carbon Tax, but Biden and Republicans are Not Necessarily Fans

The new administration has made clear that its approach to reducing emissions will involve regulation, incentives and other government actions.

By Marianne Lavelle, Judy Fahys
March 8, 2021



Gina McCarthy, the White House National Climate Advisor, speaks at the Queen theater on December 19, 2020 in Wilmington, DE. Credit: Joshua Roberts/Getty Images

The largest U.S. oil industry trade group is considering an endorsement of carbon taxes for the first time. But the biggest news may be how little that is likely to matter, as U.S. climate policy moves decisively in an entirely different direction.

The American Petroleum Institute confirmed that its member companies are trying to arrive at a consensus about carbon pricing—a position that almost certainly will involve trade-offs, including less government regulation, in exchange for the industry's support of taxes or fees.

Economists have long favored making fossil fuels more expensive by putting a price on carbon as the most simple and cost-effective way to cut carbon dioxide emissions. Most big oil companies, including ExxonMobil, BP, Shell, and Chevron, endorse carbon pricing, although they have done little to push for it becoming policy. But API's move for an industry-wide position comes just as the Biden administration has made clear that it is moving forward with regulation, investment in clean energy research and deployment and a broad suite of other government actions to hasten a transition from energy that releases planet-warming pollution.

Unsurprisingly, many view the API move as a cynical effort to stave off a looming green onslaught. "The American Petroleum Institute is considering backing a carbon tax — but only to prevent ambitious regulation of greenhouse emissions," tweeted the Center for Biological Diversity.

The White House had no immediate comment on the news. But for now, anyway, there is little sign that the Biden administration is prepared to surrender regulatory authority on climate in exchange for a tax. Biden's team includes avowed advocates of carbon taxes—most notably, Treasury Secretary Janet Yellen. But the unmistakable message from the White House is that it will pursue a government-led drive for action on climate

change, not a market-driven approach where taxes or fees do most of the work of weaning the nation off fossil fuels. The administration clearly has been influenced by political and economic thinkers who argue that pricing carbon may be necessary for reaching the goal of net zero emissions, but it would be more politically savvy—and ultimately, more effective—to start with other action to mandate or incentivize cuts in greenhouse gas pollution.

"The problem with doing taxes or even a cap-and-trade program as your first step is that produces a lot of political resistance," said Eric Biber, a professor at the University of California's Berkeley Law school. "Basically, you've made an enemy of everyone who makes money off of carbon. And if you win, you're probably only going to get a small tax."

He and other experts agree that a small tax won't drive the kind of investment or economic transformation needed to achieve Biden's ambitious goal of putting the nation on a path to net-zero emissions by 2050, and his interim target of carbon pollution-free electricity by 2035. Most carbon tax proposals that have been introduced in Congress start at $15 to $50 per metric ton of carbon, while the Intergovernmental Panel on Climate Change has said that a price from $135 to $5,500 per metric ton by 2030 may be needed to hold warming below 1.5 degrees C (2.7 degrees Fahrenheit). That huge IPCC range reflects the fact that if no other government policies, like regulations, are put in place to drive down emissions, a higher carbon price will be needed.

Unicorns, Striped and Polka-Dotted

At a major energy industry conference last week, Gina McCarthy, Biden's White House climate adviser, affirmed that her team is focused on developing a suite of policies, including regulation and government investment, to achieve the president's climate goals.

"My job is really to establish an action plan that uses every bit of our agency expertise, every bit of our federal dollars, every bit of our policies and our regulations and standards to actually drive the kind of change that we need to have in the United States," said McCarthy, in a virtual discussion session at CERAWeek by IHS Markit, an annual conclave of top oil, gas, and electricity executives. As part of the U.S. re-entry into the Paris climate accord, the administration plans to announce its 2030 carbon emissions reduction goal and its plans for achieving that target at an Earth Day summit of major emitting nations on April 22, McCarthy said.

At the same conference, ExxonMobil's Chairman and CEO Darren Woods expressed support for some government mandates—in particular, rules to curb leaks of the potent warming gas methane—and said he'd like to see "stability" in regulations. And Woods ranked carbon pricing as a top policy goal for his company.

"Getting a market price on carbon is going to be really important to make sure that we're using market forces to most cost-effectively reduce CO2 emissions," he said in response to a question about the government's role in a lower carbon future. "I would also say that government should not pick winners and losers."

That's an industry mantra that roughly translates to: "Don't subsidize alternative energy." But on the same day that Woods was speaking, McCarthy and Biden's economic advisers were examining precisely that in a virtual meeting with leaders of electric vehicle infrastructure companies. The session was about Biden's pledge of federal government investment to build a national network of more than 500,000 EV charging stations—a policy that the American Petroleum Institute has said it will oppose. Since petroleum products currently fuel more than 90 percent of U.S. transportation, such government support literally puts money on electricity over oil as the highway fuel of the future.

As for carbon pricing policy, when McCarthy was asked about it directly by E&E News in February, she said, "There is nothing that is off the table and out of consideration." But Treasury Secretary Yellen made clear that other policy initiatives will take precedence at her Jan. 19 confirmation hearing. When asked to name one step with which the administration could begin to tackle the climate crisis, Yellen quickly turned to Biden's plan for government investment in U.S. infrastructure, including build-out of the EV charging network.

Another key player on the Biden climate policy team is expected to be Jared Bernstein, one of three members of the White House Council of Economic Advisers, who has written about carbon pricing as both a policy imperative as well as a political quagmire. Bernstein, who served as an economic adviser to Biden during his vice presidency, wrote about the pitfalls of both carbon taxes and cap-and-trade in a 2015 opinion piece in The Washington Post, including the danger of setting a tax too low and the give-aways to industry that have become inevitable in the design of cap-and-trade systems. But Bernstein stressed that the biggest problem was that neither carbon taxes nor cap-and-trade was politically viable in Washington. To ask which approach was better, Bernstein wrote, was "a little bit like asking: Do you like your unicorns to be striped or polka-dotted?"

Republicans are Not On Board

One intriguing window into how Biden's team is thinking about carbon taxes was a December tweet by Joseph Goffman, then director of Harvard Law's energy and environmental law program and a member of Biden's environmental transition team. Goffman is now principal deputy assistant administrator of the Environmental Protection Agency's Office of Air and Radiation, helping to lead the effort to revive greenhouse gas regulations for power plants, vehicles and industry sectors like oil and gas.

"Do *not* allow your next thought to form about carbon taxes before listening to this brilliant discussion," tweeted Goffman, linking to a podcast by his colleagues at Harvard. In it, Matto Mildenberger, a political scientist at University of California Santa Barbara and author of a recent book on climate politics, argues that there's a built-in advantage for the fossil fuel industry in any policy designed around carbon taxing.

"It's going to make consumer costs and policy costs extremely salient, extremely visible, and extremely prominent," Mildenberger said. "And it's going to take all the benefits and background them, make them sort of politically obscure, put them into the future, and sort of hide them. Most people would say that that's a pretty bad way to design a policy, particularly a policy that might transform our economy."

In the view of Mildenberger and others who've studied climate politics around the world, subsidies, regulation, and other policies that provide more immediate and visible benefits—like jobs creation—are a better way to jump-start climate policy, even if they cost more in the short run. That's because they stimulate investment to help lower the cost of alternative energy, and at the same time help broaden political support for stronger climate policy. New actors with real investments they want to protect and advance will want more aggressive action, and politicians will respond.

Biber, at Berkeley Law, said the most obvious example of that in U.S. politics is the bipartisan support on Capitol Hill for ethanol (although he believes that subsidies for corn-based fuel have been of questionable benefit to the climate). Biber said the dynamic also can be seen in Republican support for renewable energy tax credits and tax credits for carbon capture and storage, because of the constituencies who support those policies in Midwestern wind energy states, and in Wyoming, home to one of the world's largest carbon capture plants.

There's no such natural constituency for a carbon tax. In fact, before the Senate passed a budget resolution to fast-track Biden's Covid relief package on Feb. 5, every one of the Senate's 50 Republicans voted in favor of an

amendment that would have prohibited a federal carbon tax. (The amendment, sponsored by Senator John Hoeven of North Dakota, failed.)

That solid Republican opposition reveals that the chief selling point of a carbon tax—its appeal to free-market conservatives—falls flat in the current U.S. political landscape, where GOP opposition to taxes has become dogma. The Citizens Climate Lobby, a group that has been devoted to forging a bipartisan consensus around a carbon tax, could only get one Republican—Rep. Francis Rooney of Florida—to sign on to its signature legislation in the last Congress, and Rooney is now retired.

Charles Komanoff, co-founder and director of the New York-based Carbon Tax Center, said the idea of a carbon tax "is really kind of orphaned right now."

He predicted that Democrats will focus on other tools for reducing emissions, such as vehicle and energy efficiency standards, until after the 2022 elections. House Democrats introduced such a measure, the CLEAN Future Act, last week. "All those things that Biden is trying to do to make every lever of government bend towards decarbonisation—I am all in on that as downpayments, as real progress," Komanoff added.

Both Right and Left See the Ground Shifting

If nothing else, API's potential positioning on carbon taxes does show that the political ground is shifting on climate change. It follows a move by the big business lobby, the U.S. Chamber of Commerce, to adopt a position for the first time in favor of "a market-based approach" to speed greenhouse gas reductions throughout the economy.

API's thinking on the issue was welcomed by Alex Flint, head of the Alliance for Market Solutions, a four-year-old group of conservatives who are pushing for Republicans to acknowledge climate and get on board with policies such as a revenue-neutral carbon tax in lieu of regulations. They argue that a lack of engagement on climate is one reason the GOP risks losing key voting blocs in future elections, especially those voters most likely to swing between parties, including young voters and college-educated women.

"The time is ripe for API to have a clear position on climate and to be able to speak on behalf of its members about it," Flint said in an interview.

It remains to be seen whether advocacy by API, the U.S. Chamber of Commerce, and others in the establishment business community will be enough to win any Republican support for a carbon tax in Congress. In theory, it could be considered in a budget reconciliation measure later in the spring.

"If reports are correct, we're pleased to see API's recognition that an economy-wide carbon price is the best mechanism to begin addressing climate change," said Kyle Kammien, senior business relations representative for the Citizens Climate Lobby. However, CCL, which has citizen lobbyists in all 435 Congressional districts, supports a robust tax that would rebate all revenue back to households in order to offset higher energy costs, and would not bargain away key federal government policy tools. Kammien said the group is looking forward to seeing further policy details from API, but added, "Regardless, their new position should send a clear signal to Congress that a carbon price is a durable, bipartisan climate solution that is good for people, business, and the planet."

Joseph Majkut, director of climate policy for the conservative Niskanen Center, which advocates carbon pricing, says his discussions on Capitol Hill show a growing number of members of Congress want to see a constructive, bipartisan conversation on climate policy.

"It ends up being a very interesting time where tectonic plates seem to be shifting, both on the left and on the right, in regards to climate, and now our hope is that the merits of a carbon price will help bridge some of these new gaps," he said.

"You know, a lot of the things that we've seen happen over the last three months were like things that were dream-board material a few years ago," Makjut said, referring to the recent climate steps announced by industry and the trade associations. "Further on down the dream board is a substantial number of Republicans supporting meaningful carbon pricing."

Nicholas Kusnetz contributed reporting.

Marianne Lavelle

Reporter, Washington, D.C.

Marianne Lavelle is a reporter for InsideClimate News. She has covered environment, science, law, and business in Washington, D.C. for more than two decades. She has won the Polk Award, the Investigative Editors and Reporters Award, and numerous other honors. Lavelle spent four years as online energy news editor and writer at National Geographic. She spearheaded a project on climate lobbying for the nonprofit journalism organization, the Center for Public Integrity. She also has worked at U.S. News and World Report magazine and The National Law Journal. While there, she led the award-winning 1992 investigation, "Unequal Protection," on the disparity in environmental law enforcement against polluters in minority and white communities. Lavelle received her master's degree from Columbia University Graduate School of Journalism, and is a graduate of Villanova University.

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Judy Fahys

Reporter, Mountain West, National Environmental Reporting Network

Judy Fahys has reported on the West for decades from Washington, D.C., and Salt Lake City. After covering the environment, politics and business at the Salt Lake Tribune, she fell in love with audio storytelling as the environment and public lands reporter for NPR Utah/KUER. Previously, she spent an academic year as a Knight Science Journalism fellow at the Massachusetts Institute of Technology. Her work has appeared in the New York Times, the Washington Post, High Country News and Outside magazine and aired on NPR. She serves on the board of the Society of Environmental Journalists.

Newsletters

We deliver climate news to your inbox like nobody else. Every day or once a week, our original stories and digest of the web's top headlines deliver the full story, for free.

- Today's ClimateWeekdays
  Our no-nonsense daily d

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Monday, March 08, 2021 10:44 AM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Millett, John <Millett.John@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: access?

https://insideclimatenews.org/news/08032021/carbon-tax-biden-gina-mccarthy-api-petroleum-industry-ceraweek/

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Jessica Bennett [jbennett@ajw-inc.com]
Sent: 3/16/2021 9:20:47 PM
To: Joseph Goffman (Goffman.Joseph@epamail.epa.gov) [goffman.joseph@epamail.epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: Biogenic CO2 - Time to meet
Attachments: biogenic CO2 overview Regan final.pdf

Joe,

I'm writing on behalf of the Biogenic Carbon Coalition. The coalition consists of a diverse group of stakeholders who represent farmers and agricultural crop processors. We wanted to make you aware of an issue concerning important regulatory clarification that we are hoping can be addressed by the Agency in the near future. To that end we would welcome the opportunity to meet to discuss how this rule change can invigorate the economy while fitting into the essential climate change work EPA will be undertaking. For your reference, I have attached a letter from the Coalition to Administrator Regan, which outlines the issue and will provide additional background.

If you have availability to meet in the near future, we would be happy to accommodate your schedule. Further if you have any questions or provide additional information, please let us know.

Thanks,

Jessica

Jessica Johnson Bennett
Partner, AJW-Inc
Mobile - 202.420.8666
jbennett@ajw-inc.com

Biogenic CO2 COALITION

January 12, 2021

Dear Administrator-designate Regan,

The Biogenic CO2 Coalition, representing farmers and agricultural crop processors, advocates for sensible policies recognizing the carbon benefits of agricultural crops and supporting the growth of the US bioeconomy. Since President-Elect Biden shares this goal, we are writing to alert you to a long-overdue policy change that can bolster American jobs and manufacturing. For nearly a decade, the US Environmental Protection Agency (EPA) has failed to distinguish in its permitting regulations under the Clean Air Act between the one-year life cycle of carbon dioxide emissions resulting from the use or processing of agricultural crops and the carbon stock emissions released by fossil fuel combustion. A simple clarification to the Agency's permitting requirements could remove a roadblock to expanding renewable, plant-based materials competition with petrochemicals.

In September 2020, in an effort to kick-start a process to provide that much needed regulatory clarity, the Coalition submitted a petition to EPA urging the agency to issue a proposed rule determining that biogenic carbon emissions from the processing or use of agricultural crops at stationary sources are *de minimis* under Clean Air Act permitting programs. We write to explain the scope, purpose, and value of such a rulemaking and to request a meeting with you and your senior staff to discuss this matter.

Background

Environmental regulators in all countries but the United States distinguish between biogenic carbon emissions released during the non-combustion processing or use of agricultural crops and carbon emissions released from fossil fuels. EPA has acknowledged since 2011 that it needs to revise its position but has failed to do so. Currently, installing fermentation units in new or renovated processing facilities for the purpose of bioproduct manufacturing may trigger facility permitting requirements under the Clean Air Act. Many aspects of the permitting process, with respect to greenhouse gases, are vague and raise more questions than answers. Rather than risk significant investments in an uncertain permitting process that might lead to a costly failure, bioeconomy companies have instead invested in other countries that have clear *de minimis* policies on biogenic carbon emissions.

To clarify, fermentation and other non-combustion methods used in the development of bioproducts are our chief concern. The Coalition's position is specific to stationary sources and does not include emissions associated with use of ethanol currently covered by the Renewable Fuels Standard. Nor is the Coalition asking EPA to address emissions associated with burning crops for energy or associated other combustion processes.

The Environmental and Economic Opportunity

By clarifying the insignificant nature of biogenic carbon emissions from these uses of annual agricultural crops, EPA can spur increased domestic production of sustainable, plant-based products and materials with a wide range of environmental benefits. Expanded production of plant-based alternatives to petrochemical based plastics and, in turn, the growth of the U.S. bioeconomy, will substantially reduce greenhouse gases (GHGs), improve water quality, divert waste from landfills, and augment soil health. Long-term benefits of this policy change include the following:

Biogenic CO2 COALITION

- **Replace single-use petroleum-based materials with sustainable alternatives.** With consumers worldwide increasingly demanding sustainable, plant-based products and materials, the global marketplace is rising to meet that demand. With the policy change, U.S. workers can fulfill this demand.
- **Reduce greenhouse gas emissions.** Production of polylactic acid (PLA) plastic made from corn-based glucose emit as little as one third of the GHGs per kilogram as compared to similar petroleum-based polymers. Biomaterials from other starches are also significantly lower than plastics derived from petroleum.
- **Grow the American bioeconomy.** The U.S. has the workers and the crops to serve the world's demand for innovative bioplastics and other biomaterials. Economies overseas, particularly Europe, increased their share of the global bioplastics market significantly faster than the US between 2014 and 2019. American agribusiness will be positioned to make significant investments in facility modernization and close that gap if EPA aligns its policies with the best available science.

Next Steps

Since submitting its petition for rulemaking to EPA, the Coalition has had productive conversations with EPA technical staff on the specific permitting issues at hand. The petition includes legal and scientific justification for regulatory action, including an analysis demonstrating that the rule would not have adverse land-use change impacts. The Coalition is hopeful that EPA will consider its petition quickly to achieve the domestic job and investments needed during this economic crisis. We are eager to discuss our petition with you and your team at your convenience.

Additional information and resources are available on the Coalition's website and our staff is available to discuss in more detail. For more information please contact Robin Bowen at rbowen@corn.org.

Biogenic CO2 Coalition Members:

- American Farm Bureau Federation (AFBF)
- Corn Refiners Association (CRA)
- Hemp Industries Association (HIA)
- National Corn Growers Association (NCGA)
- National Cotton Council of America (NCC)
- National Cottonseed Products Association (NCPA)
- National Farmers Union (NFU)
- National Grain and Feed Association (NGFA)
- National Oilseed Processors Association (NOPA)
- North American Millers Association (NAMA)
- Plant Based Products Council (PBPC)

Message

From: Shaw, Betsy [Shaw.Betsy@epa.gov]
Sent: 3/5/2021 9:48:22 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Hyde, Courtney [Hyde.Courtney@epa.gov]; Marusiak, Eleanor [Marusiak.Eleanor@epa.gov]; Wolfe, Michael [Wolfe.Michael@epa.gov]; Siegel, Kelly C. [Siegel.KellyC@epa.gov]
Subject: PRE-DECISIONAL INTERNAL

Importance: High

Hi Joe,

Ex. 5 Deliberative Process (DP)

We will walk you through this analysis and a draft appeal momentarily.

Thanks,

Betsy

Message

From: Mitchell Hescox [mitch@creationcare.org]
Sent: 2/16/2021 7:28:11 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Methane Questions

Joe,

Would you be kind enough to help me understand the direction EPA is planning on addressing methane both existing sources and new sources?

There has been much chatter on a CRA for the Trump version, new legislation such as separate codification bills from Rep. Scott Peters and Rep. DeGette. I know Senator Carper has not supported a CRA while some green jobs have pushed Leader Schumer. And now I hear it's out of favor (CRA).

Is EPA planning a new revised standard as you have written in in your Harvard work?

If you have any thoughts or can make some reason out of the possibilities and give us any clarity - it would be greatly appreciated.

Blessings

Mitch
The Rev. Mitchell C. Hescox
Co-Author with Paul Douglas:
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Creation Care: It's A Matter of Life

On the web: http://creationcare.org, http://christiansandclimate.org

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Message

From: POLITICO Pro Energy [alert@email.politicopro.com]
Sent: 2/26/2021 11:40:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: 'Look what you did to us': The big chill of Texas politics

'Look what you did to us': The big chill of Texas politics

By Richard Parker

02/26/2021 06:36 PM EST

SAN ANTONIO — By the time the second snowfall struck, on Thursday, Feb. 18, Guadalupe Garza, had grown increasingly despondent.

Her electric power had remained on as the deepest freeze in recorded history struck the nation's seventh largest city, plunging millions into below-freezing conditions, darkness and disillusion. But the water had been out for three days. She drank what bottled water she had and worried that food would run out in her neighborhood on the largely poor and Latino west side before the city's basic services came back.

"I really didn't know if it was going to stop," she said through her tears. "I was depressed." She had lost her 56-year-old son, Robert, an Army veteran, to Covid-19 in December and now this. She desperately wanted to go to church, but at 72, with inches of freak snow and sheer black ice coating the streets, venturing out was too dangerous. A full week would pass before she left her home and only then it wasn't for the store; it was for Guadalupe Church on El Paso Street to light a votive candle.

As President Joe Biden landed in Houston Friday, temperatures had returned to a balmier 76 degrees or so, but the merciless arctic freeze that crippled the state, knocking out power to as many as 4 million people for several days, has left a trail of damage that will take weeks, if not months, to repair. Economists estimate the total damage of winter storm Uri will exceed $100 billion, placing it on the scale of Hurricanes Harvey and Ike, the second and third most costly in recent U.S. history. The death toll, now hovering around 30 in Texas (80 across all the states hit), seems likely to more than triple to Harvey and Ike levels, too. About 1 million people in South Texas are hungry.

The hardest breach to repair, however, might be between Texans and their elected officials. Over the course of the cascading humanitarian crisis high-ranking Texas politicians didn't exactly cover themselves in glory.

First, Austin falsely blamed renewable energy, even assailing a policy proposal that hadn't even become law yet. One GOP member of Congress sent a letter to constituents with a link to warming centers before closing with a warning that "radical ideologies have politicized energy policy at the state and federal level in recent years." Then they went after the utility industry that was once the state's pride.

"The Electric Reliability Council of Texas has been anything but reliable over the past 48 hours," said Gov. Greg Abbott, rebuking the independent entity that controls power generation across almost the entire state. Officials managed to skip past their pledge from a decade ago, after the last catastrophic freeze, to winterize their power plants. Then, instead of chipping in, as former Rep. Beto O'Rourke did, several of the state's most prominent Republican elected officials headed out for warmer locales, or at least ones where the power was still on.

And the public, trapped in their flooded, frozen, barren-fridge misery, noticed.

"I think that the mayor was trying to do his best," San Antonio resident Guadalupe P. Garza, 79, (and no relation to the other Mrs. Garza) told me. "But I blame the governor. When it came to Covid he wouldn't shut down the state. We [are] in this predicament now in San Antonio because of him. I would just like to shake him and say: 'Look at what you did to us and to San Antonio, our city.'"

Assessing the effectiveness of disaster response is a famously fraught political game. What looks like a master class in bureaucratic crisis management from inside an emergency operations center can seem laughably insufficient to the people bundled in blankets outside an overwhelmed food bank. But all sorts of Texans, from shivering private citizens to frustrated public officials, say that Texas' state leaders failed them.

In the face of a monstrous storm Abbott's response was tepid, at best. He didn't deploy the National Guard in any sizable numbers before, during or after the storm. There are no state aid facilities handing out water or food. In his Feb. 13 letter to Biden, Abbott asked for direct financial assistance and help with emergency services. Normally, governors, including Abbott, request military help, money for local governments and hazard mitigation to make sure properties are habitable, and even social services. But not not this time. His request was comparatively minuscule. His office in Austin did not respond to a request for comment.

The storm revealed an uncomfortable power-play between GOP leaders in Austin and their mostly Democratic counterparts in the state's big cities. In Texas, examples of local autonomy routinely run afoul of a governor who jealously guards his prerogatives to override everything from plastic bag bans to mandatory mask orders. But when the cities are in crisis, the sense is that it's their problem to sort out, not his. Millions of Texans have nearly frozen in the dark and have been on a boil-water notice, without running water in days.

"The state government must provide emergency assistance to repair water infrastructure, or we risk millions being without water for a week," Julián Castro, the former San Antonio mayor and housing secretary, pleaded on Twitter. Abbott "failed to prepare for this storm, was too slow to respond, and now blames everyone but himself for this mess."

On the day before Valentine's Day, winter storm Uri roared out of Siberia, over the North Pole onto the Great Plains. The town of Bottineau, N.D., plummeted to minus 51 degrees celsius, according to the National Weather Service, the coldest in 128 years. From there, Uri rushed south, reaching Tyler, a sleepy city in the East Texas pine country, where the thermometer dropped to six below zero. Texas hadn't seen cold like this since 1899, when rivers dumped ice into the Gulf of Mexico.

All the way into South Texas, Uri laid waste to the state's agriculture, killing cows caught out on the plains and those in feedlots. The storm froze the ears right off of newborn calves, according to the Dallas Morning News. Sorghum and watermelon crops were ravaged. Citrus groves were hit so hard the effect will still be felt in 2022. People weren't spared, either.

Just after midnight on Monday, Feb. 15, Ron Marks, an IT consultant in Austin, lost power at his house in the Bouldin Creek neighborhood, a once eclectic collection of musicians, rednecks and Hispanics that has gentrified of late. Rolling blackouts across the state left 2 million Texans without power, which became 4 million by Monday afternoon. In total darkness, the temperature plunged to 10 degrees. Inside Marks' home, the internal temperature dropped into the 40s.

By Tuesday morning, food in the fridge began to rot. His wife, Leslie Bonnell, could see her breath. An Austinite for 30 years, Marks found himself confused: How long would this go on? They loaded up luggage, an elderly dog and drove through deep snow to a friend's house where there was still power and heat.

By Feb. 16, Abbott had turned his ire on the wind and solar industry, which was not responsible, on the friendly airwaves of Fox News. Then he spun around in a news conference to point his finger at the industry's self-regulating body, left largely untouched by the state, the Electric Reliability Council of Texas. (ERCOT is a private body that tells member utilities how much power to produce, depending upon factors like weather and fuel supplies and is supposed to be regulated by the state.) Famously independent, Texas' energy grid stands apart from the rest of the country. When natural gas wellheads iced up, pipelines froze and coal piles were encased in ice, the state couldn't draw electricity from other sources and the grid largely shut down. ERCOT responded with rolling blackouts for 26 million people, out of 30 million Texans, on its grid.

"The lack of information was just terrible. There was way more opinion than information," Marks, 57, said. "I kept thinking, 'Where is the Emergency Broadcast System?'"

Across Austin, people fled to friends and neighbors, choosing the risk of Covid-19 infection over freezing to death. Others stayed put. Taya Williams, who runs a hair-styling business, and her partner dug in. They cooked frozen meat and rice on a gas range. Eighty hours would elapse with no power, no heat and no water.

"We didn't realize it was going to be so terrible. But we went into survival mode and we both did pretty great until about three days in," Williams said. "I started losing hope that anything was going to change."

By the end of the week, power had been largely restored, but millions were under boil-water notices because the blackouts had zapped water treatment facilities and officials were worried about contamination.

In the midst of the still-unspooling crisis, it turned out that Attorney General Ken Paxton, under felony indictment, had jetted off to Utah. A state senator had taken a private jet to Florida. And, of course, Sen. Ted Cruz had been caught red-handed slinking off to Cancun with his family.

The wags at El Arroyo, a legendary Tex-Mex dive in downtown Austin, updated their daily street sign commentary: "If you're cold, just Cruz to Mexico." Yet rage was building. People had begun to die: in their homes, in their stranded vehicles, inside idling cars in their garages. Galveston ordered a meat refrigeration truck for the dead.

Abbott didn't even bother to call his big-city mayors.

"I have not talked to the governor at any time during this crisis, but we're pushing forward." Houston Mayor Sylvester Turner told MSNBC on Friday, Feb. 19. "The White House has reached out to me several times, and we've had those communications."

This might not surprise students of Texas politics. After all, years ago, Abbott had declared a kind of war on his cities. He didn't like them regulating business where the state hadn't.

At first, he battled them over environmental laws like banning plastic grocery bags, which blew everywhere in the Texas wind. He fought with them over natural-gas fracking inside city limits, which tended to set off earthquakes. Then came the pandemic. He refused to let them impose mask-wearing mandates, shut down local economies or even limit restaurant services, whether capacity or hours. He excluded mayors from briefings on the pandemic. A self-described small government constitutionalist, he was really a new breed: a big government Republican, claiming to defend limited government while expanding state power if it meant protecting business interests.

So, this time, the cities' own response was erratic. Dallas told downtown buildings to cut back on power use. Yet in Houston and Austin soaring downtown skyscrapers were lit up even as people shivered in the dark

elsewhere. Harris County Judge Lina Hidalgo, whose jurisdiction includes Houston, called the light show "maddening."

Catching wind that utilities were sending people $16,000 bills, an angry Ron Nirenberg, the mayor of San Antonio vowed in his daily briefing: "There will be hell to pay."

In his Feb. 13 letter to Biden, it was what the governor didn't ask for that stuck out. He asked for no military help with logistics or aid distribution. He didn't ask for disaster unemployment insurance, money for local governments, not even hazard mitigation for damaged homes, not even food or water. He asked for no military assistance. Abbott asked only for direct financial assistance for individuals and help keeping emergency services going until the storm passed.

In sharp contrast, Abbott asked for and got massive federal help before Hurricane Harvey even came ashore in August 2017. At his request, FEMA pre-positioned people and supplies, linking up with the Texas Emergency Management Agency, bringing in over 1 million meals, 3 million bottles of water, blankets and cots, and providing medical services to more than 5,000 Texans. The federal government even brought in 210,000 pounds of hay for livestock, according to FEMA's 2017 after-action report. The Air Force flew 30 missions, mostly ferrying supplies. Abbott activated all 30,000 members of the Texas National Guard. But none of that happened this time.

Abbott was in a different political situation. On the one hand there was a Democratic president in office, not his old ally Donald Trump. On the other hand, Abbott's biggest threat, as he prepares to run for reelection in 2022 and possibly the presidency in 2024, isn't to his left but to his right. Florida transplant Allen West chairs the Texas GOP and is even calling for secession.

"My sense is that Abbott is calibrating his relationship with a Democratic president," said James Henson, a political scientist at the University of Texas at Austin. Despite the human toll, Abbott, say, doesn't want ads in 2022 portraying him as hat-in-hand to Biden. "The Republicans just want to do the bare essential here, and they don't want to do too much. Plus, Abbott doesn't want this storm to be the focus of another news cycle."

"Federal assistance is needed to lessen the threat of disaster, save lives, and protect property, public health and safety," he wrote to Biden without mentioning the long tail of the storm, prolonged lack of water, and the likelihood of continuing financial turmoil about how to pay bills as simple as essential as next month's rent. And potentially worse: the rising specter of hunger in the poor parts of San Antonio and all of South Texas.

With little help from the state, the aid task has fallen on the local government, private citizens and local charities. Bexar County here was one of dozens forced to issue boil-water notices. Now, the city is still distributing water bottles for 14 days straight. Firefighters and fire department cadets loaded 31 pallets in cars at the parking lot of Our Lady of the Lake University on Sunday, Feb. 21.

"We still have lots of people without water," said the firefighter in charge, who would only identify herself as Bertha. "As long as I've been alive, I've seen nothing like this."

The storm and its after-effects touched everyone, up and down and the socioeconomic scale.

In the palm-shaded, historic King William neighborhood, lawyer Jennifer Espronceda, saw burst pipes spraying water under her building and alongside a wall. Having lost her house in the 2011 freeze, when it burned during a power surge, she felt a familiar fear.

"I was panicking at how much damage was done and what could be done," she said. "If I wasn't able to get it fixed, I was going to be in a world of hurt."

On Sunday, Feb. 21, the weather broke and the sun came out. People danced salsa outside a bank downtown. But over on the west side, one of the poorest zip codes in the country, hundreds of cars lined up at the Good Samaritan Center on Saltillo Street over on the west side. Executive director Simón Salas scratched together three pallets of donated vegetables. On Monday, hundreds of meals came in from local restaurants that are part of World Central Kitchen. The line of cars stretched out, longer than the block is long.

"People have suffered," said Salas. "People have been at differing levels of despair. It's a memory but it's never going to be forgotten."

Even the people from the neighborhood who rely upon the center's help pressed themselves into service. Alvaro Ferrer, 56, came in Tuesday after racing around looking for food and water, buying it out of his own pocket, and giving it out to neighbors, known and unknown alike. He and his family survived Covid-19 infections only to be hit with Uri, during which he took in grandchildren, children, boyfriends and even a homeless couple.

"I didn't get no rest," he said, sweating between delivery runs. "It was crazy."

"I've been doing this 28 years, and it's just heart-breaking. It's so emotional," said Eric Cooper, CEO of the San Antonio Food Bank, which became famous last year as photos of massive lines for food during the pandemic went viral.

On Monday, Feb. 22, after delivering food, Cooper drove away from an apartment complex for the elderly troubled by what he saw. Old people in need of medicine, water and food. Repairs that might, or might not, be adequately done by landlords.

"I drove away from the apartment complex feeling just frustrated. Frustrated," Cooper told me. "This level of disaster is way too big for philanthropy. I've got chefs sleeping in kitchens. As for the people, when does a disaster victim become just another poor person?"

Cooper's food bank normally feeds 900,000 people a week. But that number rose to well over 1 million people at least, according to Cooper. With little in grocery pantries, the food bank is relying on restaurant kitchens to donate individual prepared meals. But that covers one meal for one day. Private charities, like the Good Samaritan Center in West San Antonio are distributing as many as 500 sandwiches every five minutes without even publicizing it. Staples such as eggs, milk and tortillas are in short supply.

One woman I interviewed paid $12 for two dozen eggs. The Texas supermarket chain, H-E-B, headquartered in San Antonio, let people walk out with cartloads of free groceries. But price gouging is common, especially aimed at the poor and uninsured. The same woman who paid 50 cents an egg told me she paid someone $75 to repair her heater, but he did a bad job. Then he turned around and demanded $5,000 to replace it.

"I'm not doing it," she told her adult son. "We'll just freeze to death."

So, FEMA has shipped generators, for example, but there is little need for them now that the power is back on. The usual National Guard and active military response is almost completely absent. At FEMA's direction, the Air Force has been ferrying water from Joint Base Charleston, S.C. and Joint Base Travis, Calif., aboard C-17s to Texas, according to military officials. Marines in Fort Worth and Army troops here in San Antonio have handed out water on the order of local commanders. But that's it. That's all the military help there is.

Asked if the lack of military help, which was out in force during Ike and Harvey before, wasn't coming because the governor hadn't asked, a Defense Department official sheepishly responded: "I didn't want to say that but yes. Usually, the governor asks for help."

Critics of the governor see Abbott's political ambitions at play. He is running for reelection and said to be eyeballing a presidential run. And so, the less he asks of the federal government the more he can claim in 2022 or 2024, that he doesn't ask Washington for help. He can't seem beholden to Washington, pressed from his right by hard-liners West, or his powerful right-wing lieutenant governor, Dan Patrick.

"Abbott doesn't want to be seen with both hands out to the government," said Henson, at the University of Texas. "If Republicans can get away with doing the bare minimum, they can have their cake and eat it, too."

Biden will likely be confounded in Houston on Friday, touching down in a city that was struck by disaster just three and a half years ago. The balmy temperatures will conceal the lurking costs and the human impacts hidden inside homes, apartments and public housing.

"Using the high and low estimates to date, we estimate the loss in gross product over time to be between $85.8 and $128.7 billion, with lost income of $56.8 billion to $85.1 billion," Ray Perryman, the most noted private economist in Texas told me. "These amounts are in the range of, and potentially above, the losses associated with Hurricane's Harvey and Ike."

While the overall economy will bounce back quickly, some industries will never recover their losses, he added. Refineries that went offline on the Texas coast won't get those lost shipments and revenue back. Insurance claims will soar and so will premiums, he said. Already-strapped state and local budgets will be tapped to somehow still pay for infrastructure damage, like potholed roads and busted mains.

Biden will be asked what the federal government can do to heal the harm the storm did. Less clear is whether he has the power to repair the broken trust between citizens who blame their government, not mother nature, for their misery.

"I was very angry with the government and the system for trying to kill us," Williams, the hair stylist from Austin, told me. "Things in Texas need to change."

Richard Parker is the author of Lone Star Nation: How Texas Will Transform America.

To view online:
https://subscriber.politicopro.com/energy/article/2021/02/look-what-you-did-to-us-the-big-chill-of-texas-politics-2037592

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Message

From: DeLuca, Isabel [DeLuca.Isabel@epa.gov]
Sent: 2/25/2021 3:05:37 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Millett, John [Millett.John@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: RE: Comms weekly
Attachments: OAR Comms Outlook 2.24.21a.docx

Attached is the OAR Comms Outlook for this week – not much new.

-----Original Appointment-----
From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, January 29, 2021 3:53 PM
To: Goffman, Joseph; Campbell, Ann; Millett, John; DeLuca, Isabel; Nunez, Alejandra; Kim, Eun
Cc: Carbonell, Tomas
Subject: Comms weekly
When: Thursday, February 25, 2021 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

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Message

From: Garbow, Avi [Garbow.Avi@epa.gov]
Sent: 2/2/2021 12:53:38 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Utech, Dan [Utech.Dan@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]
Subject: Re: EMBARGOED: CSAR Statement

Great. Thx Joe.

Avi Garbow
Senior Counselor to the Administrator
U.S. EPA
Sent from my iPhone

On Feb 1, 2021, at 7:51 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

FYI, and, of course, close hold. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Shane Karr <roger.karr@stellantis.com>
Sent: Monday, February 1, 2021 7:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: EMBARGOED: CSAR Statement

Hi Joe:

Per our conversation, the below statement will be released at 7 am tomorrow by the Coalition. Wanted you to have it in advance but please embargo until the release time. Thank you.

Shane

"The Coalition for Sustainable Automotive Regulation (CSAR) chose to intervene in a lawsuit between California and the federal government to support a unified fuel economy and greenhouse gas (GHG) program. We are aligned with the Biden Administration's goals to achieve year-over-year improvements in fuel economy standards that provide meaningful climate and national energy security benefits, reduce GHG emissions and promote advanced technologies. In a gesture of good faith and to find a constructive path forward, the CSAR has decided to withdraw from this lawsuit in order to unify the auto industry behind a single national program, with ambitious, achievable standards."

--

STELLANTIS

Shane Karr
Mobile: 202-360-1187
shane.karr@stellantis.com

Message

From: Edwards, Jonathan [Edwards.Jonathan@epa.gov]
Sent: 3/3/2021 8:50:14 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
CC: Shaw, Betsy [Shaw.Betsy@epa.gov]; Cherepy, Andrea [Cherepy.Andrea@epa.gov]; Veal, Lee [Veal.Lee@epa.gov]; White, Sharon [White.Sharon@epa.gov]
Subject: FW: EPA Disaster Mitigation and Recovery Order -- OAR Coordination Plan
Attachments: Final_OAR Disaster Mitigation Recovery Coordination Plan.pdf; Final_OAR Disaster Mitigation & Recovery Coordination Plan_021821.docx

OAR Political team--- This note serves an FYI—hopefully helpful for your own awareness. Please see the attached documents (PDF doc is master copy) and see the below email.
Joe and I had a brief conversation during my general this afternoon and we agreed that it was a good idea for you to see a copy of the Mitigation and Recovery document. Betsy has been briefed on the Plan and is the signatory authority for OAR ---- the planning document has useful information in it on roles of the various OAR program offices during incident mitigation and recovery actions (as you probably know, the 10 EPA regions also have a significant role in these phases). Any questions please feel free to contact me or Sharon White and if you'd like a briefing we'd be glad to accommodate. Thanks--Jon

From: Edwards, Jonathan
Sent: Thursday, February 25, 2021 9:49 AM
To: Shaw, Betsy <Shaw.Betsy@epa.gov>
Cc: Rowson, David <Rowson.David@epa.gov>; Cherepy, Andrea <Cherepy.Andrea@epa.gov>; White, Sharon <White.Sharon@epa.gov>; Smith, Alisa <Smith.Alisa@epa.gov>; Malashock, Daniel <malashock.daniel@epa.gov>
Subject: EPA Disaster Mitigation and Recovery Order -- OAR Coordination Plan

Dear Betsy,

I am transmitting for your review the attached *OAR Disaster Mitigation and Recovery Coordination Plan* in advance of our March 3 briefing for you on the Plan. The Office of Homeland Security (OHS) has requested EPA HQ Offices and Regions signal approval of their plans by signing and transmitting them to OHS by March 5.

As a reminder, EPA Order 2074 for Disaster Mitigation and Recovery reaffirms the Agency's role in disaster mitigation and recovery and provides a structure for how EPA national program offices and Regions will coordinate to support states, local communities, tribes, and territories preparing for or recovering from disasters. The Order requires each national program office and all Regions to each develop a standard operating procedure or coordination plan within 120 days (by Mar 5) to complement the requirements of the Order. As you will recall, the OAR Coordination Plan designates ORIA's Indoor Environments Division (IED) as the OAR Mitigation and Recovery Coordinators.

In the role of OAR's Mitigation and Recovery Coordinator, we have prepared the documentation on how OAR will comply with the requirements set forth in the Order. IED has worked with the POCs from the other OAR offices to develop the attached OAR Coordination Plan. The OAR Coordination Plan format is based on planning guidance for operational plans from the National Preparedness System. I have now circulated this plan to the other OAR Office Directors for their review and have received their concurrence to request your approval and transmittal of the plan.

We look forward to meeting with you on March 3 and addressing any issues or questions you raise. Following that step, we would ask that you sign and transmit the OAR Coordination Plan to OHS Deputy Associate Administrator, Paul Kudarauskas, by March 5 and copy David Rowson, Sharon White, Daniel Malashock and me on the transmittal.

Please do not hesitate to reach out if you have any questions before our meeting next week on March 3. --- Jon

Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 2/11/2021 10:03:56 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Biden's Texas-sized greenhouse gas fight

Biden's Texas-sized greenhouse gas fight

By Ben Lefebvre

02/11/2021 05:00 AM EST

President Joe Biden looks set to run into a Texas-sized problem on his quest to cut U.S. greenhouse gas emissions.

Powerful Texas politicians are rallying the state government to pull out the stops to block the new administration's early climate moves — some of which would crack down on the methane leaks from the state's oil and gas infrastructure to meet new, ambitious goals that Biden is expected to unveil as the U.S. rejoins the Paris Climate Agreement.

While even the largest companies in the energy industry are pledging to work with the Biden administration to curb those natural gas leaks, Texas lawmakers — including members of the Bush clan — are targeting the federal moves as job killers.

The White House declined to comment on how its climate change plans will address the vast oil and gas industry in Texas, which the Department of Energy earlier last year estimated was responsible for half of all the natural gas leaked into the atmosphere in the U.S. in 2019. But Republican Texas Gov. Greg Abbott and General Land Office Commissioner George P. Bush have already unveiled their strategy: suing the federal government's climate-focused regulations early and often.

The Texas General Land Office announced a new Texas Defense Task Force, led by Bush and including "private entities," that is prepared to "aggressively pursue every legal avenue to slow down and stop this alarming onslaught of executive orders and defend the hundreds of thousands of good-paying jobs and our economy at large."

In a press release announcing the new entity, the office said Bush "has drawn a line in the sand, with a series of lawsuits to be announced in coming weeks." The announcement came days after Abbott signed an order directing state agencies "to use all lawful powers and tools to challenge any federal action that threatens the continued strength, vitality, and independence of the energy industry."

A Land Office spokesperson did not reply to questions on the private partnerships or whether Texas would focus on addressing its own natural gas leaks, which critics say are both driving climate change and cheating local governments and landowners out of royalties they are due from the gas that is burned off or floats away.

But the Land Office would be continuing a long Lone Star tradition of fighting federal regulations facing one of the state's largest industries. Abbott, during his time as state attorney general, and his immediate successor sued the Obama administration 48 times, costing Texans $5 million in state money and winning seven of those cases, according to data compiled by the Texas Tribune.

"It goes to show the long history of the state investing taxpayer resources in ideological fights against the feds and specifically the EPA," said Adrian Shelley, director of the Public Citizen office in Texas.

Environmental groups argue the state would be better served by spending its money to rein in the natural gas leaking from wells, pipelines and storage tanks in the Permian Basin, the vast region that spreads across West Texas and southern New Mexico and is the top U.S. oil and gas field.

In all, Texas oil companies allowed nearly 5.5 million metric tons of methane to leak in 2019, enough to meet the annual needs of more than 5 million households, according to the Environmental Defense Fund, an environmental group that has been partnering with the industry to reduce emissions. About 10 percent of the towers used for flaring — the burning of excess natural gas at a drilling well that turns the methane pollution into carbon dioxide — were malfunctioning or completely unlit , letting natural gas seep directly into the atmosphere, an EDF study found.

Natural gas mainly consists of methane, a molecule that is far more potent at trapping heat than carbon dioxide, though it remains in the atmosphere for a much shorter time.

"Texas really underscores why it's critical to have strong federal protections in place," said Rosalie Winn, senior attorney at EDF. "There's been no action on the state level in Texas to address this problem. EPA action in the Biden administration will be really critical to cutting U.S. shares of emissions. Texas is definitely a major source of emissions within the United States."

Earthworks, another environmental group, used flyover data to recently find that three quarters of the flaring on land in Texas overseen by the General Land Office was taking place without permits.

"The Permian Basin is a climate bomb," said Lauren Pagel, policy director at Earthworks. But "the state is disinterested in regulating the industry. They allow the industry to regulate itself. That is not going to be an acceptable way to limit climate pollution from oil and gas drilling."

Other oil producing states, including Colorado and New Mexico, have strengthened their rules aimed at reducing natural gas leaks from the oil industry. Texas, on the other hand, has imposed few rules on companies. Democrats in the state government have proposed bills intended to cut emissions, but the efforts are expected to go nowhere because of opposition from the Republican-controlled legislature and governor's office.

The Texas Railroad Commission, the state body in charge of regulating the oil and gas industry, is led by members who have said they don't believe that human activity contributes to climate change. The TRC has said it will require companies to provide more details in any applications to flare excess gas at their well sites.

"The Railroad Commission has been very active in addressing the flaring issue," TRC Commissioner Wayne Christian said during a meeting where he also hailed the past decade as "the best decade in recorded human history" for the environment and global poverty rates.

"We've done a darn good job" addressing environmental concerns, Christian added. "Our industry, our state of Texas has done the best job doing it."

"That being said," he continued, "we can always do better and must phase out flaring for economic reasons alone." He urged the commission to reduce the number of exceptions it awards to rules limiting when companies may burn gas rather than capture it, and said the regulator should press companies on why they are seeking exemptions.

Texas' attitude that the industry can take care of its own emissions puts it at odds with the American Petroleum Institute, the oil and gas industry's largest trade group. The API has reversed the position it held for years that

the government has no place directly regulating methane emissions, said association spokesperson Bethany Aronhalt.

"While API formerly held that existing federal regulation of volatile organic compounds, with the dual benefit of reducing methane emissions, was sufficient, we believe that direct regulation of methane from new and existing sources is key to public confidence in our industry's performance as we engage with the new administration," API President and Chief Executive Mike Sommers wrote in a blog post.

The Biden administration will have a tough time with any efforts to nudge the state's methane emissions lower. Much of what comes next will depend on Biden's pick to helm the EPA regional district in charge of Texas, an office the Trump administration staffed with officials who rejected the scientific consensus on climate change and delegated its enforcement powers to state agencies.

"It's not a question of numbers" of employees at the district level, said Adrian Shelley of Public Citizen. "It's a question of political will. You'll need a regional administrator to have cover for the president and his administration to push back against Texas antagonism and people who are able to rein back in the delegated authority."

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Message

From: POLITICO Pro Energy [alert@email.politicopro.com]
Sent: 2/19/2021 9:49:15 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Democrats demand answers from Texas governor

Democrats demand answers from Texas governor

By Eric Wolff

02/19/2021 04:48 PM EST

Congressional Democrats, including Senate Majority Leader Chuck Schumer, are blaming Republican Gov. Greg Abbott's policies as a root cause for the Texas blackouts that shut off power for 4.4 million earlier this week amid freezing temperatures.

The details: Schumer said in a tweet that he wanted the investigation already announced by FERC and the North American Electric Reliability Corp. to target Abbot for climate change denial.

"We need the federal investigation by @FERC & @NERC_Official to look into how Gov. Abbott's policies in Texas have failed & exacerbated the winter storm crisis. Ignoring warnings, lying about the climate crisis, refusing to act on it are exactly what's exacerbating extreme weather," Schumer said.

He was joined by Energy and Commerce Chair Frank Pallone (D-N.J.) and four additional committee Democrats who sent a letter Friday to Abbott demanding answers for the blackout, including the total death count that can be attributed to days without energy.

Earlier Friday, Rep. Ro Khanna (D-Calif.), chair of the Environment Subcommittee of the House Oversight Committee, said he would launch his own investigation into the causes of the blackout, with a focus on the Electric Reliability Council of Texas, which oversees the grid for most of the state. Khanna harped on Republicans' attempt to blame the blackout on frozen wind turbines which exacerbated Texas power woes.

"We need to know why so many fossil fuel sources failed, why ERCOT wasn't better prepared, & who participated in the conspiracy to falsely blame renewables," Khanna tweeted Friday.

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https://subscriber.politicopro.com/energy/whiteboard/2021/02/democrats-demand-answers-from-texas-governor-3987129

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2021 Energy and Environmental Law Conference

March 24-25, 2021
Online Conference

Presented by

Institute for Energy Law (IEL) of The Center for American and International Law

Wednesday, March 24	
9:50 – 10:00 a.m. (Central)	**Welcome, Overview and Introductions**
10:00 – 10:45 a.m. (Central)	**Keynote**
10:45 – 10:55 a.m. (Central)	**BREAK**
10:55 – 11:40 a.m. (Central)	**Regulatory Roulette: The State of Play Under the Clean Air Act, Clean Water Act, and Other Major Environmental Statutes** This session will provide an overview of several major ongoing Clean Air Act regulatory initiatives, including CAA regulation of greenhouse gas emissions from various industrial sectors, as well as address noteworthy recent developments under the Clean Water Act, NEPA, and other environmental statutes. The presenter will also discuss potential future regulatory developments. **Amanda Shafer Berman,** Crowell & Moring LLP, Washington, D.C.
11:40 a.m. – 12:25 p.m. (Central)	**ESG Considerations for Oil & Gas Companies** Environmental, Social, and Governance (ESG) issues are top of mind in the Boards and C-suites of energy companies. This presentation will discuss recent trends in ESG including metric development, board involvement, public disclosure, shareholder resolution response, government investigations, and government and private party litigation. **J. Scott Janoe,** Baker Botts L.L.P., Houston, Texas
12:25 – 1:30 p.m. (Central)	**BREAK**

1:30 – 2:30 p.m. (Central)	**Regulation – State Style** This session features leading state regulators from key energy states in a panel discussing upcoming trends in environmental regulation and enforcement, developments in the federal-state agency relationship, and their visions for the future of energy and the environment. Moderator: **Timothy A. Wilkins,** Bracewell LLP, Austin, Texas Panelists: **Denise Brinley,** Executive Director, Pennsylvania Governor's Office of Energy, Harrisburg, Pennsylvania **Sandra Ely,** Director, Environmental Protection Division, New Mexico Environment Department, Santa Fe, New Mexico Additional Panelist Invited
2:30 – 3:30 p.m. (Central)	**PFAS and the Forever Chemicals – Why They Matter in the Energy Industry** In this moment, every legal conference covering environmental issues includes a presentation on PFAS, emerging contaminants, and/or "forever chemicals." Regulatory uncertainty and litigation risk abound, but what is the real relevance of this issue to the energy industry? This panel discussion, which includes voices from state regulatory and industry policy and technical perspectives, will answer this question and provide a focused analysis of the issues that energy industry counsel need to consider in the strategic management of legacy and future liabilities. **Rula Deeb, Ph.D., BCEEM, PMP,** Senior Principal, Geosyntec Consultants, Oakland, California **Keith Petka**, Manager, Downstream, American Petroleum Institute, Washington, D.C. Additional Panelist Invited
Thursday, March 25	
9:55 – 10:00 a.m. (Central)	**Introduction**

10:00 – 11:00 a.m. (Central)	**In-House Environmental, Health and Safety Perspectives: "What Keeps Us Up at Night in 2020?"** In an expanded reprise of this popular panel, come hear leading EH&S in-house counsel offer their perspectives on the evolving regulatory landscape and the challenges it poses. Moderator: **John R. Jacus**, Davis Graham & Stubbs LLP, Denver, Colorado Panelists: **Amy Lincoln,** Supervising Counsel, Environmental & Safety Law, Chevron, San Ramon, California **Dennis Alan Lindsey II**, Senior Legal Counsel, Hess Corporation, Houston, Texas **Lance S. Tolson,** Global Managing Counsel HSE, Shell Oil Company, Houston, Texas
11:00 – 11:30 a.m. (Central)	**The Climate Change Outlook for Energy in 2021** This session will cover recent developments in both federal and state climate change initiatives affecting the oil and gas industry. The session will discuss a wide range of actions, from cap and trade programs, to litigation, legislation and regulation. Climate change initiatives are expected to gain momentum and creativity as all sectors of the economy consider and address the local, regional and global effects of greenhouse gas emissions. The session will address legal, practical and policy considerations. **Jean M. Mosites**, Babst, Calland, Clements and Zomnir, P.C., Pittsburgh, Pennsylvania
11:30 a.m. – Noon (Central)	**BREAK**
Noon – 12:50 p.m. (Central)	**Lunch Social**
12:50 – 1:00 p.m. (Central)	**BREAK**

1:00 – 2:00 p.m. (Central)	**Environmental Litigation – Trends and Coming Threats** The trends and risks in environmental litigation continue to evolve, with the plaintiffs' bar attempting new theories and seeking ever larger penalties. This presentation will review the most recent litigation activity and what it may predict for future waves of suits. Moderator: **Margaret Anne Hill**, Blank Rome LLP, Philadelphia, Pennsylvania Panelists: **Robert Bell,** General Counsel, Intercontinental Terminals Company, LLC, Houston, Texas Additional Panelists Invited
2:00 – 3:00 p.m.	**Litigation Risk and Exposure from Extreme Climate Events** Extreme weather events have led to real legal exposure and will continue to do so. This presentation is prospective, in that it discusses how to anticipate and prepare to these events. It is also retrospective, in that it discusses responses after these events, including how to defend, mitigate, and transfer litigation risk. The discussion covers the major types of extreme weather events and many locations around the globe. **Mary Rose Alexander**, Latham & Watkins LLP, Chicago, Illinois **Lamis El Didi**, Principal – Capital Project & Infrastructure, Exponent, Oakland, California **Thomas J. Heiden**, Latham & Watkins LLP, Chicago, Illinois **Susan C. Paulsen, Ph.D, P.E.,** Principal Scientist & Practice Director, Exponent, Pasadena, California
2:45 p.m.	**Adjourn**

Message

From: Agri-Pulse Daily Harvest [sara@agri-pulse.com]
Sent: 2/9/2021 11:30:04 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daily Harvest 2/9/2021

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Agri-Pulse Daily Harvest

Agri-Pulse Daily Harvest -- 2/9/2021

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FARM & RURAL POLICY

Agri-Pulse: Daybreak for February 9, 2021

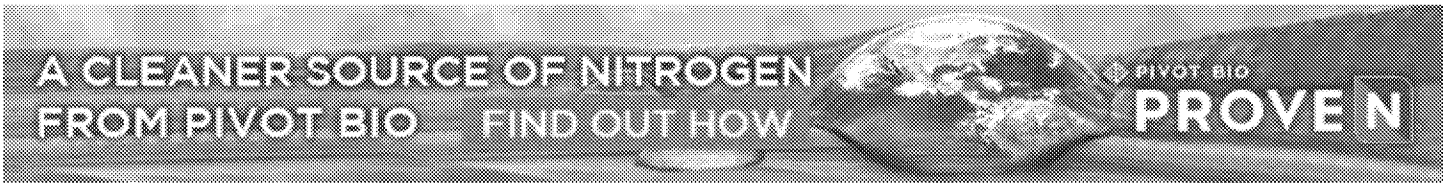
Link - (Audio) Direct payments down this year * Booming demand for H-2A * US dairy exports set record high in 2020.

Agri-Pulse: DriveTime: February 8, 2021

Link - (Audio) News on more coronavirus aid, fresh biofuels infrastructure legislation, and thoughts on the COVID-19 vaccine and its usage in rural America.

WEAU: Gov. Evers setting aside $43 million for agriculture

Link - Tony Evers is proposing for agriculture in the 2021-23 state biennial budget.



ENERGY

Roll Call: Biofuels can contribute now to a cleaner energy future

Link - Smart agriculture policy that has a role for ethanol can help advance Biden's agenda on all fronts.

Green Car Congress: Bi-partisan bill in Senate to advance deployment of renewable .

Link - US Senators Amy Klobuchar (D-MN) and Joni Ernst (R-IA) reintroduced bipartisan legislation to create a renewable fuel infrastructure grant program and streamline regulatory requirements to help fuel retailers sell higher blends of ethanol.

wreg.com: TVA increases solar power capacity by 60%, plans on doubling capacity by 2040

Link - Solar power is on the rise in the Tennessee Valley.

REVE: Wyoming's wind energy capacity almost doubled in 2020

Link - Wyoming played a big part in helping the country's wind energy fleet reach new heights.

Electrek: Renewables will be the leading source of US electricity by 2030

Link - By 2030, renewables will collectively surpass natural gas to be the predominant source of electricity generation in the US, according to the US Energy Information Administration's (EIA) Annual Energy Outlook 2021. But that's not enough.

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FOOD & NUTRITION

Futurity: School gardens can nudge kids to eat their veggies - Futurity
Link - School gardens and lessons about what grows in them may offer a way to get kids to eat their vegetables, a new study shows.

Fox Business: Illinois-based company recalls dips, salads for lack of inspection: USDA
Link - An Illinois-based company is recalling more than 6,000 pounds of its ready-to-eat dips and salad products because they were not federally inspected, according to recall notice posted by the United States Department of Agriculture's Food Safety and Inspection Service.

Eater: Grocery Store Workers Feel Forgotten in Vaccine Rollout
Link - Once lauded as heroes of the pandemic, grocery store employees now struggle for better pay and vaccine priority.

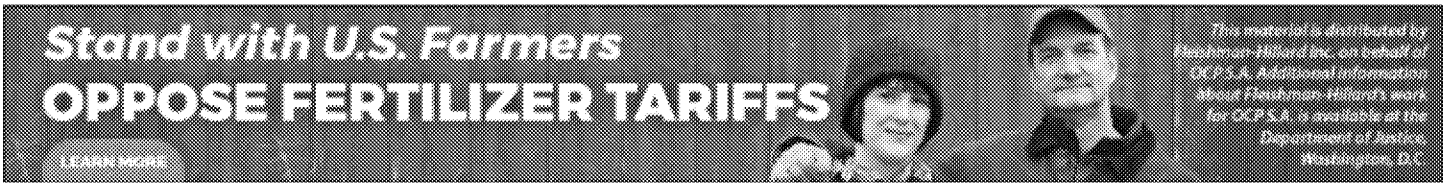
Grub Street: Indoor Dining Can Begin in New York City This Friday
Link - Restaurants will still only be allowed to reopen at 25 percent capacity for the time being, but "they have made the point that they would like to open a couple of days earlier so they can be be ready for Valentine's Day," Cuomo says of restaurant owners.

Vermont Biz: New plan to strengthen Vermont's agriculture and food system
Link - Vermont Business Magazine The Vermont Sustainable Jobs Fund through its Farm to Plate Initiative, and the Vermont Agency of Agriculture, Food and Markets (VAAFM) have released the Vermont Agriculture and Food System Strategic Plan 2021-2030.

WTRF: Around the World Gourmet invests in environmentally-friendly agriculture
Link - One local business, along with several partners, is making a major investment that will involve a modern and environmentally friendly form of agriculture.

The Delaware News Journal: Efforts to vaccinate Delaware's poultry workers, hit hard by COVID-19, stalled by limited supply

Link - a vaccine shortage is making the process of getting those shots to essential workers even more challenging. But both the state and these poultry companies say they have a plan.



TRADE & INTERNATIONAL

Fortune: The centerpiece of Trump's trade deal with China 'failed spectacularly'

Link - The landmark trade deal that the U.S. and China signed last year was in large part "a failure," and the disruptive economic impact of the COVID-19 pandemic was only partially to blame, according to a new report from the Peterson Institute for International Economics (PIIE).

Press and Journal: Vaccine row fallout could ease Brexit trade tensions

Link - The botched attempt by the European Commission to scrap the Northern Ireland protocol to allow a vaccine export ban may help ease some Brexit tensions.

Bloomberg: Modi Appeals to Farmers to End Protests Against Agriculture Laws

Link - The legislation was approved in parliament, which is dominated by the ruling party and its allies.

LABOR & IMMIGRATION

INFORUM: Farmers worry about H-2A delays because of South African travel ban
Link - Many farmers in the Upper Midwest hire South African workers through the H-2A program every year. A COVID-19 related travel ban does not affect those essential workers but still could delay their arrival.

mainebeacon.com: 'It's the right thing to do': Bills would expand labor protections
Link - A state representative in Maine, Harnett (D-Gardiner) is continuing that fight, putting forward three bills this legislative session to improve labor standards for farmworkers.

WLRN: Finding The Lost Children Of Migrant Farmworkers
Link - Across the country, these teachers, tutors and school advocates work to help the children of farmworkers, long considered among the most vulnerable and disadvantaged children in the U.S.

CONSERVATION & WILDLIFE

National Geographic: These widely used insecticides may be a threat to mammals too
Link - Neonicotinoids are already accused of contributing to widespread insect declines. But there's evidence they can also harm rabbits, birds, and deer.

Reuters: Fed to weave 'inescapable' climate change risk into bank oversight
Link - The U.S. Federal Reserve is beginning to incorporate the impacts of global warming into its regulatory writ, following in the footsteps of its global peers, according to a paper published Monday by the San Francisco Fed.

The Hill: Green groups threaten to sue Biden over Trump-era waterway permits
Link - A coalition of environmental groups warned the Biden administration Monday it would sue if the

Army Corps of Engineers fails to reconsider Trump-era permits for industry activity they fear will pollute waterways.

Associated Press: UN chief: Polluters must join 'net zero' club for climate
Link - Polluters must step up their commitments to cutting greenhouse gas emissions before a crucial climate summit in November, U.N. Secretary-General Antonio Guterres said Monday.

Reuters: Scientists warn over misuse of climate models in financial markets
Link - Misuse of climate models could pose a growing risk to financial markets by giving investors a false sense of certainty over how the physical impacts of climate change will play out, according to the authors of a paper published on Monday.

Associated Press: Judge blocks another bid to shut down Line 3 construction
Link - A federal judge has rejected another attempt by opponents to shut down construction work on Enbridge Energy's replacement for its aging Line 3 crude oil pipeline across northern Minnesota.

MISCELLANEOUS

Agri-Pulse: Opinion: The false choice of profits and conservation
Link - Lynn Tjeerdsma, member with AGree Economic and Environmental Risk Coalition, shares his thoughts on conservation practices.

newsdakota.com: Study Shows Precision Agriculture Improves Stewardship ...
Link - The Association of Equipment Manufacturers, the American Soybean Association, the National Corn Growers Association, and CropLife America released a new study on precision ag.

Rural Blog: Springsteen's ad for Jeep from the center of the contiguous states was no

masterpiece, but didn't deserve urban insult

Link - The musician from the country's most urbanized area went to a very rural place, the geographic center of the 48 contiguous states, to make a pitch for Jeep, and for healing the country.

KXXV News Channel 25: 'We want a seat at the table': Texas farmers ready to work with

Link - Russell Boening operates his family dairy farm and raises beef cattle in Wilson County, along with growing diversified crops.

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Message

From: Kho, Stephen [skho@akingump.com]
Sent: 3/16/2021 9:02:53 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Section 337 - meeting request
Attachments: Long Letter from D. Yonan to USTR re LG-SKI 337 - revised FINAL.pdf

Importance: High

Dear Mr. Goffman,

My name is Stephen Kho and I am one of the outside counsel for Volkswagen Group of America Inc. I'm writing about a 337 case that is currently under Presidential Review: Certain Lithium Ion Batteries, Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Processes Therefor, U.S.I.T.C. No. 337-TA-1159. VW is a very interested third party in this proceeding. In fact, the remedy in this proceeding will significantly impact VW, arguably more than the two primary parties, which is what makes the Presidential Review of this case particularly unique.

Attached is our public interest comments we sent to USTR, and we have already met with USTR, DOC and USPTO, and we are scheduled to meet with DOE and DOT soon. As there does not appear to be an opportunity to more formally meet with interested agencies involved in the Presidential Review interagency process on this, I wonder if we can get on the phone to explain our concerns to you also? Specifically, while we do not take a position on the merits of this case, the ITC did in fact provide a remedy that specifically attempts to carve out VW given our unique situation. However, this carve out is too narrow and does not address our concerns at all. There is a way to rectify this, while also addressing the public interest concerns at issue related to environmental priorities and reshoring of critical supply chains.

Would you have time later this week or next week for us to meet with you by phone or over Zoom?

Best,

Stephen Kho
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From: Grundler, Christopher [grundler.christopher@epa.gov]
Sent: 3/10/2021 6:00:04 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: draft Methane briefing---CPO
Attachments: EPA methane briefing WH 03.10.21.pptx

Joe and Tomás:

Peter and my teams developed the attached draft methane briefing for the to-be-scheduled meeting with Ali Z. Let us know what you think, particularly with respect to the balance between background and current activities

Thanks, Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

UNITED STEELWORKERS

UNITY AND STRENGTH FOR WORKERS

November 27, 2019

Filed Electronically: http://www.regulations.gov
RIN 2060-AU42 / Docket ID: EPA-HQ-OAR-2019-0136

United States Environmental Protection Agency
Office of the Administrator, Room 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Comments of the United Steelworkers on Proposed Rule RIN 2060-AU42; Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes

Dear Administrator Wheeler:

These comments are submitted on behalf of the 850,000 members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("United Steelworkers" or "USW"). The USW represents working people across multiple sectors, including approximately two thirds of domestic petroleum refining, accounting for 30,000 well-paying, community supporting jobs at over 75 locations across the country, and also represents workers in the biofuel industry at ethanol facilities. Through national pattern bargaining the union has achieved a form of sectoral bargaining in refining and has worked with the industry to advance the safety and livelihoods of our members. America's workers and sustainability should be a top priority in the decision to make any changes to the Renewable Fuel Standards (RFS) program.

We oppose the proposed amendments to the definitions in the RFS percentage standard formula. This proposal will cause harm with its reallocation of forecasted small refinery exempted requirements.

Our union has opposed an increase of the renewable volume obligation (RVO) as the impact to merchant refining is significant.[1] Recent studies show that

[1] http://www.fuelingusjobs.com/library/public/documents/17-08-01-USW-Roy-Houseman.pdf

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union
Legislative and Policy Department, 1155 Connecticut Ave, N.W. 5th Floor, Washington, D.C. 20036
202-778-4384 • 202-293-5308 (Fax) • www.usw.org

the RFS program and year-over-year increase of the RVO is actually detrimental to the environment. The push to increase ethanol production has led to the expansion of crop agriculture and depletion of grasslands, wildlife habitat, and natural resources. According to Aaron Smith, professor of agricultural and resource economics at the University of California, Davis, "The ensuing expansion and intensification of crop agriculture has transformed the landscape, leading to a cascade of negative impacts on wildlife habitat, water resources, and the climate." The National Wildlife Federation has agreed, and stated, that the current RFS policy is harming the environment.[2]

The decisions made on this policy should be made based on data, not political opportunity. The data does not support the continual year-over-year increase to the RVO. Nor does it support this proposed change in policy to use speculative projected volumes of exempted gasoline and diesel produced by small refineries when those exemptions, as a whole or individually, have not been adjudicated by the agency. The proposed rule acknowledges that projections are uncertain – even for aggregate exempted volumes – so we urge the agency to abandon this proposal.

Despite the false narrative, there has been no demand destruction with the issuance of small refinery exemptions (SREs). As University of Illinois agriculture economist, Scott Irwin, points out, ethanol consumption for 2018 dropped for the first time since 1998, but overall fuel consumption was down as well causing no actual ethanol demand destruction.[3] In the first quarter of 2019, the rate of ethanol blended into fuel increased over the previous year.[4] Therefore, these proposed changes are seeking to solve a problem that does not exist.

Reallocating the projected volumes of exempted small refineries is contrary to the purpose of the intent of the RFS policy and has the potential to put refining jobs at risk. This decision will add to the volatility of the already unstable and unregulated market for renewable identification number (RIN) credits. This is a particular concern at the merchant refining sites the union represents where the refinery is the point of obligation for compliance, but where they do not control blending and must purchase RIN credits on the open market. For example, when Philadelphia Energy Solutions (PES) filed for bankruptcy in 2018, they cited RIN costs as a major factor.[5] An

[2] https://www.nwf.org/Home/Latest-News/Press-Releases/2019/03-07-19-Biofuels-Environmental-Harm
[3] https://farmdocdaily.illinois.edu/2018/12/more-on-small-refinery-exemptions-and-ethanol-demand-destruction.html
[4] https://www.eia.gov/totalenergy/data/monthly/pdf/sec10.pdf
[5] https://www.bizjournals.com/philadelphia/news/2018/03/27/court-approve-philadelphia-energy-pes-bankrutpcy.html

uncontrolled and unmanageable increase in RIN prices has the potential to affect the viability of merchant refining sites and the excellent jobs they provide.

The quality and conditions of the work in the refining and biofuel industries, and the people performing the work, must be considered in any decision made on the policies affecting them. The average wage for a refinery worker is between $36 and $50 per hour with Bureau of Labor Statistics (BLS) highlighting a median wage of over $70,000.[6] Through our union's bargaining, these workers also have good healthcare, safety standards, and retirement security. The federal government requires biofuel to be blended with the conventional fuel product, but with this mandate there are no labor standards requirements for the biofuel industry. BLS does not monitor for wages of ethanol production workers, but reports are that the average wage is $14 per hour.[7] With the lack of pay transparency, the union has reviewed online sites and found pay in ethanol production to be significantly less than refinery production. A 2015 industry article highlights that 47% of operators make under $50,000 a year.[8] If the federal policy is going to mandate growth in this sector, there should also be a policy to lift the standards for the working people in this industry.

The USW supports complete RFS reform and RIN market regulation. This decade old policy needs reform that relies on available data, considers environmental impact, and puts working people first. In the absence of comprehensive reform, USW urges EPA to withhold from finalizing this supplemental rule change and leave the definitions unchanged for 2020. We ask EPA to reconsider its decision to reallocate projected exempted 2020 volumes to non-exempt refiners. As a stakeholder representing the majority of domestic refining workers, we ask that our members, and all working Americans, be considered as a top priority in the rulemaking process for the RFS policy.

Sincerely,

Anna Fendley
Director of Regulatory and State Policy

[6] https://www.glassdoor.com/Salaries/refinery-operator-salary-SRCH_KO0,17.htm
[7] https://www.glassdoor.com/Salaries/plant-worker-ethanol-salary-SRCH_KO0,12_KE13,20.htm
[8] http://www.ethanolproducer.com/articles/12096/

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union
Legislative and Policy Department, 1155 Connecticut Ave, N.W. 5th Floor, Washington, D.C. 20036
202-778-4384 • 202-293-5308 (Fax) • www.usw.org

February 25th, 2021

President Joseph R. Biden, Jr.
United States of America
Washington, D.C.

Subject: **Working Together on Strong Vehicle Standards to Boost the Economy, Create Jobs and Protect Health**

Dear President Biden:

On behalf of the millions of members of our organizations, we thank you for your visionary climate leadership, your dedication to creating jobs here in the U.S, and protecting communities on the front lines of air pollution and climate change.

America's transportation sector is the leading source of the carbon pollution driving dangerous climate events, and a primary contributor to air pollution that threatens public health, especially in communities of color most impacted by the devastating COVID-19 pandemic.

We applaud your Day One executive order to revisit the Trump administration's rollback of the clean car standards through model year 2025 and its illegal preemption of California emission standards, as this is a key first step in addressing transportation emissions. We urge the administration to next act quickly to **reinstate California's waiver and restore national standards at least to levels set during the Obama-Biden administration. The Obama-Biden standards set in 2012 were and are achievable. In 2017, President Trump gutted those standards; while the California-automaker deal in 2020 put us partially back on the pathway, it is now time to restore the Obama-Biden standards and go even further.**

New long-term clean car standards, which build on the legacy of these interim standards, are also critical to realize your vision of full vehicle electrification that eliminates tailpipe pollution while securing and growing high road auto sector jobs and manufacturing, ensuring pocketbook and health gains for families as well as frontline communities struggling with pollution from roadways.

We therefore further request that you immediately **direct the Environmental Protection Agency (EPA) to lead the development of new long-term multi-pollutant standards that will help put the nation on a trajectory to make all new cars and light-duty trucks zero-emission vehicles no later than 2035, including a 2030 standard that achieves fleet average emissions 60% or more below today's average.**[1]

In addition, the administration should take immediate action on medium and heavy-duty vehicles. Across the U.S., health-threatening air pollution is concentrated in low-income communities and communities of color. Ambitious standards that drive electrification for medium and heavy-duty vehicles are essential for protecting health in communities adjacent to highways, ports, warehouses, and freight corridors.

[1] At least a 60 percent reduction is achievable while assuming that the standards include upstream emissions from electricity or hydrogen production, transmission, distribution and charging or fueling for plug-in electric and fuel cell electric vehicles. Removing upstream emissions from compliance would require a more stringent standard level. We also assume that credit multipliers are not extended past 2021 and that off-cycle credits are capped at 10 g/mi.

EPA should adopt standards for durable reductions in oxides of nitrogen, particulate matter, and greenhouse gases that are consistent with 100 percent zero emission vehicle sales no later than 2040. All new urban delivery, school and transit buses should be zero-emissions by 2035. Near-term EPA standards should provide pollution reductions consistent with the reductions that states are seeking through California's recent Heavy-Duty Omnibus and Advanced Clean Trucks rules.

Strong vehicle standards will spur the creation of high-quality domestic jobs if complementary steps are taken to ensure that zero-emission vehicles and their parts are made by U.S. workers to the maximum extent possible. These supporting policies will require sustained and coordinated efforts at every level of government and with a myriad of stakeholders. Your Buy America executive order will help drive these investments. We request that you also support **incentives to develop and produce zero-emission vehicle technologies in the U.S., helping to promote good paying jobs here.** Electric vehicle demand is growing globally, and China and Europe are investing heavily to be the world's suppliers of batteries and other zero-emission vehicle parts. With swift action, the U.S. can scale up and become a global electric vehicle production powerhouse.

Thank you for your leadership in growing the economy, protecting people's health, and avoiding the ravages of the climate crisis. We are excited to work with you on all these initiatives to achieve our shared goals of meeting the demands of science while investing in the U.S. workforce.

Sincerely,

Mitchell S. Bernard
Interim President & Chief Counsel
Natural Resources Defense Council

Dominique Browning
Director and Co-Founder
Moms Clean Air Force

Michael Brune
Executive Director
The Sierra Club

Ken Cook
President and Co-Founder
Environmental Working Group

Alex Cornell du Houx
President
Elected Officials Protecting America

Amy Davidsen
Executive Director
The Climate Group

Abigail Dillen
President
Earthjustice

Geri Freedman
Co-Chair
Elders Climate Action

Mary Beth Gallagher
Executive Director
Investor Advocates for Social Justice

Michael Garfield
Executive Director
The Ecology Center

Rev. Susan Hendershot
President
Interfaith Light and Power

Katie Huffling
Executive Director
Alliance of Nurses for Healthy Environments

Gene Karpinski
President
League of Conservation Voters

Howard A. Learner
President
Environmental Law and Policy Center

Mark Magaña
CEO and Founding President
GreenLatinos

Matthew Metz & Janelle London
Co-Executive Directors
Coltura

Steven M. Nadel
Executive Director
American Council for an Energy-Efficient Economy

Kathleen Rest
Executive Director
Union of Concerned Scientists

Michelle Romero
National Director
Dream Corps Green for All

Kierán Suckling
Executive Director & Co-Founder
Center for Biological Diversity

Terry Travis
President
EVHybridNoire

Wendy Wendlandt
President
Environment America

Dr. Scott Williams
Executive Director
The Healthy Environment Alliance of Utah

Rev. Lennox Yearwood Jr.
President and Founder
Hip Hop Caucus

CC: Gina McCarthy
National Climate Advisor

Brian Deese
Director of the National Economic Council

Ali Zaidi
Deputy National Climate Advisor

Austin Brown
Senior Director for Transportation Emissions

Message

From: Agri-Pulse Communications [noreply@agri-pulse.com]
Sent: 2/26/2021 9:51:33 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Climate & sustainability are the hot topics at this year's Summit

Climate & sustainability are the hot topics at this year's Summit

View this email in your browser

Don't forget to register for the Ag & Food Policy Summit

Join us March 22-24 for Agri-Pulse's annual Ag & Food Policy Summit! This year's virtual summit will feature three half-day sessions.

Monday, March 22, 2021 - 8 a.m. - 1 p.m. EST
Tuesday, March 23, 2021 - 12 - 5 p.m. EST
Wednesday, March 24, 2021 - 12 - 5 p.m. EST

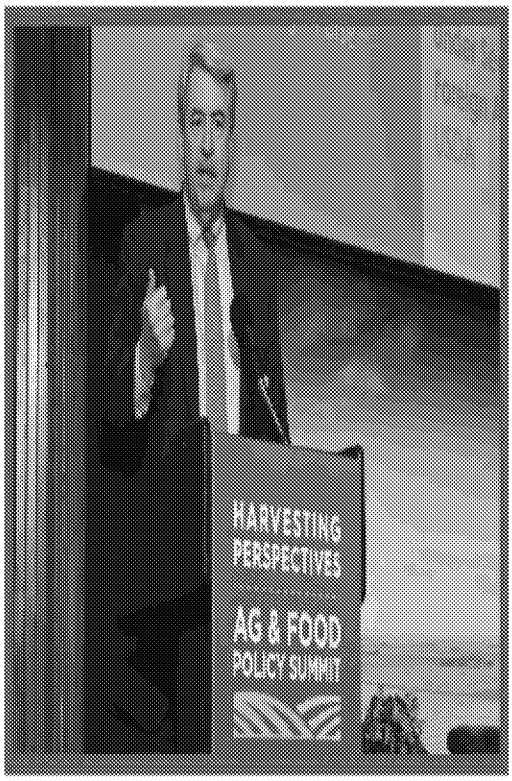
"This is a terrific opportunity to discuss various policy options and to share ideas for how agriculture and the food industry can have seats at the climate solutions table," says Agri-Pulse Editor Sara Wyant.

Click here to see the latest agenda

Click here to register

"THE AGRI-PULSE AG & FOOD SUMMIT IS A 'MUST-ATTEND' EVENT."

- TED MCKINNEY, PAST SPEAKER



HARVESTING PERSPECTIVES

AG & FOOD POLICY SUMMIT

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Message

From: Agri-Pulse Daily Harvest [sara@agri-pulse.com]
Sent: 2/5/2021 11:10:28 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daily Harvest 2/5/2021

Agri-Pulse Daily Harvest 2/5/2021

Agri-Pulse Daily Harvest

Agri-Pulse Daily Harvest -- 2/5/2021

Here's your daily summary of top news from www.Agri-Pulse.com **and regional headlines from across the country. Do you know someone who should also be on our list? Please ask them to click** here**.**

FARM & RURAL POLICY

Agri-Pulse: Daybreak for February 5, 2021

Link - (Audio) USDA climate czar addresses concerns; Minority farmers getting new focus; USDA denies system hack.

Agri-Pulse: DriveTime: February 4, 2021

Link - (Audio) A handful of lawmakers have a new level of influence in farm policy. More on that and a look at the confirmation process for EPA Administrator nominee Michael Regan.

Agri-Pulse: Washington Week in Review: Feb. 4, 2021: Rep. David Valadao on dairy, immigration, and water policy

Link - (Video) California Republican David Valadao shares his thoughts on how the GOP might work with Democrats and the Biden administration on key farm policy issues like carbon credits, an adequate dairy safety net and farm workforce, and addressing needed action on California water.

Agri-Pulse: Senate Ag adds five members spanning the ideological spectrum

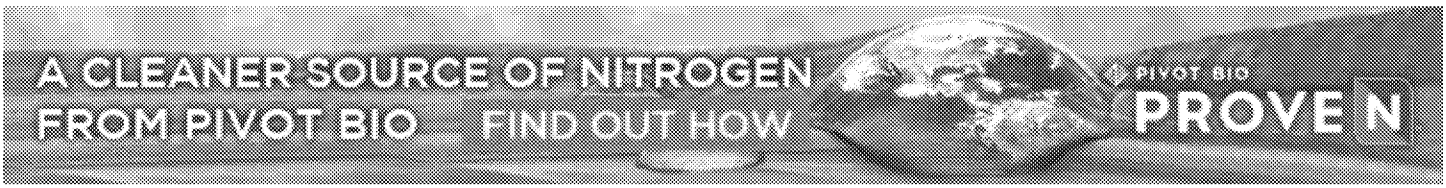
Link - The Senate Agriculture Committee will have five new members this year, including Democrats who will bring their social justice concerns to the panel.

Reuters: U.S. Senate Democrats set for first step on road to new COVID-19 relief

Link - Democrats in the U.S. Senate were poised on Thursday to take a first step toward the ultimate passage of President Joe Biden's $1.9 trillion COVID-19 relief proposal, in a marathon "vote-a-rama" session aimed at overriding Republican opposition.

Kansas City Star: McConnell grants Kansas' Roger Marshall his wish, a seat on Senate Agriculture panel

Link - Kansas Republican Sen. Roger Marshall has landed a seat on the Senate Agriculture Committee, fulfilling a promise he made during his campaign.



ENERGY

Fox Business: Biden taking a 'sledgehammer' to US economy, energy jobs: Sen. Barrasso

Link - Sen. John Barrasso, R-Wyo., slammed President Joe Biden on Thursday for taking a "sledgehammer" to the US economy and energy jobs after recent executive orders and legislation by the administration to combat climate change led to job losses across the oil and gas industry.

Gizmodo: Rich Hamptons Residents Scared of 'Violent Energy Releases' From Offshore Wind Farm Cable

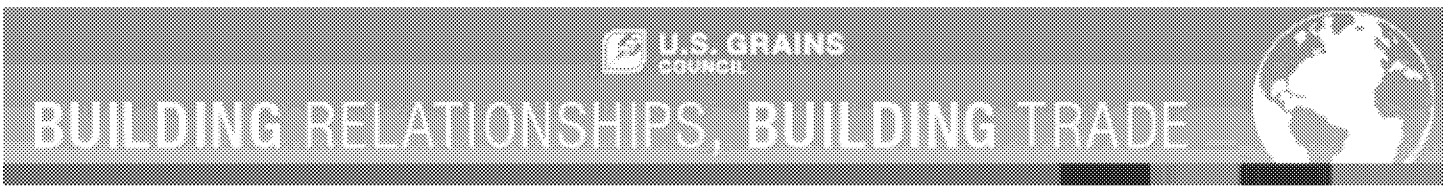
Link - A group of well-heeled Hamptons property owners filed a lawsuit this week seeking to block a key piece of infrastructure needed to construct a large wind farm off the coast of Long Island.

The Hill: Democratic senator pushes for clean electricity standard

Link - Sen. Tina Smith (D-Minn.) on Thursday pushed for the adoption of a clean electricity standard, and for potentially using budget rules that sidestep the filibuster to get it done.

The Union Leader: Solar industry baffled as Maine energy provider cites costly upgrades to accommodate them

Link - Maine's burgeoning solar industry is up in arms, after many developers received emails from Central Maine Power last week indicating that their projects are causing technical problems at substations that could require costly upgrades.



FOOD & NUTRITION

Newsweek: Twice as Many Workers Died of COVID at Tyson Foods Than Other Meatpackers

Link - A class-action lawsuit filed against Tyson Foods on Tuesday said that twice as many Tyson employees died after contracting COVID-19 than any other meat processing company.

CNN: 'Shift' to plant-based diets is key to saving world's wildlife

Link - The global food system is the primary driver of biodiversity loss and species extinction, and a shift to plant based diets is needed to curb the damage being done to nature, according to a new report.

The Washington Post: The avocado in your Super Bowl guacamole is bad for the environment.

You can make it better.
Link - Fairtrade and Equal Exchange can improve environmental problems connected to avocado farming.

CNN: The pandemic has devastated restaurants. These people are opening new ones anyway
Link - Data from Yelp shows that new restaurant and other food business openings in 2020 were down just 16% from 2019. And they were only down 4% in the fourth quarter relative to the year-ago period.

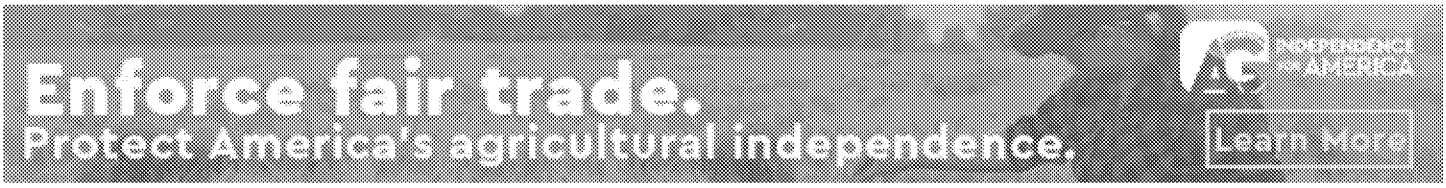
CNN: Meal kits and buckets of bubble tea: How KFC's owner is pivoting in China
Link - Snail noodles, marinated steaks and huge vats of bubble tea are helping China's biggest fast food giant get through the coronavirus crisis.

TRADE & INTERNATIONAL

NBC News: Defiant Indian farmers demand agricultural law repeal | Thu, Feb 04
Link - Protesters in the Indian capital demanded the repeal of new agriculture reform laws that farmers claim will favor large corporations.

Financial Times: Australian farmers warn China trade spat will cost them $28bn
Link - Agricultural lobby asks Canberra for help finding alternative export markets.

The Guardian: Live farm animal exports to mainland EU at a standstill post-Brexit
Link - Lucrative live shellfish trade also hit hard, with consultation over further restrictions on live animal exports ending soon.



LABOR & IMMIGRATION

WVEC: Minimum wage is increasing for Virginians, but not farm workers. There's a push to change that.
Link - Virginia Delegate Jeion Ward introduced a bill that would remove the farm worker exemption from Virginia's minimum wage law.

NPR: Should Calif. Farmworkers Be Next In Line To Get COVID-19 Vaccine?
Link - California is battling over getting vaccines to essential farmworkers, who are hard to reach. Prioritizing them could slow overall efforts, but advocates say equity demands they must be prioritized.

The Guardian: 'Please send more vaccines': Covid crisis engulfs California's farming heartland
Link - With hospitals filled to the brink and vaccines in short supply, the region's agricultural workers have been among the most vulnerable residents.

CNBC: Bipartisan pair of senators reintroduces immigration reform bill protecting 'Dreamers'
Link - Sens. Dick Durbin, D-Ill., and Lindsey Graham, R-S.C., on Thursday introduced the latest iteration of the Dream Act.

CONSERVATION & WILDLIFE

The Hill: Biden administration delays Trump rollback of migratory bird protections
Link - The Biden administration has put a one-month delay on the Trump administration's rollback of protections to migratory birds and is opening the rule back up for public comment.

Colorado Newsline: Public lands protections could move ahead in Congress this year
Link - Democrats in Congress have a rare opportunity to advance an ambitious public lands agenda — if they can keep their tenuous majorities in line.

NBC LA: USC To Create Roadmap For LA's Urban Forest Initiative In Eastside Communities
Link - The University of Southern California will work with the city of Los Angeles to create an urban forest of shade trees to improve the health and quality of life of residents in Eastside communities, it was announced Thursday.

Chron: Help needed finding abandoned crab traps in Galveston Bay
Link - Abandoned crab traps are a big problem in Galveston Bay.

NBC2 News: Army Corps reduces water releases toward SWFL & sends water south
Link - The Army Corps of Engineers will reduce the planned increase in Lake Okeechobee releases to the Caloosahatchee Estuary.

MISCELLANEOUS

WAND: The Illinois Department of Agriculture to host a virtual Hemp Summit
Link - The free online event will feature presentations from growers, processors, university researchers, industry stakeholders, and IDOA staff.

StyleBlueprint: Jones Valley Teaching Farm Changes Lives With Food

Link - Jones Valley Teaching Farm helps students excel through a hands-on education model, providing connections to food, farming, and the culinary arts.

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Washington, DC 20250

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Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 2/2/2021 7:12:31 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Edwards, Jonathan [Edwards.Jonathan@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Shaw, Betsy [Shaw.Betsy@epa.gov]
Subject: RE: ACTION: EO Lookback
Attachments: OAR lookback 020120v2.xlsx

Following up from our discussion this morning, please find attached the revised spreadsheet. Please let me know if you have any feedback. Please also note, the regions have requested to preview our list to better inform their own decisions on this drill (being run in the regions as well). If your comfortable wth my doing so I will share this with Justin to work with the ADDs (only) for informational purposes.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Monday, February 1, 2021 8:49 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Edwards, Jonathan <Edwards.Jonathan@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>
Subject: RE: ACTION: EO Lookback

Ann-

Ex. 5 Deliberative Process (DP)

Thanks
Sarah

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Monday, February 1, 2021 8:22 PM
To: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Edwards, Jonathan <Edwards.Jonathan@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>
Subject: ACTION: EO Lookback

Good evening all. Attached please find everyone's response to the lookback called for in the EO. Many of the actions have been identified as needing a briefing. In some instances those briefings are already moving forward. Please look again at the list and let me know if any of your actions need a briefing this week in order to determine whether it should

be included in the first cut of OAR's response due to OP on Friday. If so, we will prioritize getting those actions on to the calendar this week.

Thank you,

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

Message

From: Morgan, Ruthw [morgan.ruthw@epa.gov]
Sent: 3/3/2021 7:26:36 PM
Subject: Administrator's Weekly Report for the week ending March 3, 2021.
Attachments: Administrator Weekly Report for 030321.docx; Administrator Weekly Report for 030321.pdf

Good afternoon Acting Administrator Nishida and colleagues,

Attached please find the **Administrator's Weekly Report** (in both PDF and Word), which includes programs and regional office updates for the week ending March 3, 2021.

Sincerely,
Ruth

Ruthw Morgan, Special Assistant
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1326
Morgan.Ruthw@epa.gov

Message

From: Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Sent: 3/11/2021 4:05:01 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: RE: BCA CRA pro-con background FYI

I agree as well—EPA has a solid strategy so let's pursue it. I actually think this is not a candidate for CRA.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Wednesday, March 10, 2021 11:03 PM
To: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Subject: RE: BCA CRA pro-con background FYI

Tomas. I read the pro-con piece a couple of hours ago and I had exactly the same reaction you did. I had totally

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Wednesday, March 10, 2021 10:58 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Subject: FW: BCA CRA pro-con background FYI

Ex. 5 Deliberative Process (DP)

Tomás

From: Shoaff, John <Shoaff.John@epa.gov>
Sent: Tuesday, March 9, 2021 3:09 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>
Subject: BCA CRA pro-con background FYI

Joe et al,

For awareness, here's what OGC is pulling together, though it's still working its way thru their chain (so you may get a

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

discussions. Thanks.

John

Ex. 5 Deliberative Process (DP)

JOHN SHOAFF (HE/HIM/HIS) | DIRECTOR
OFFICE OF AIR POLICY & PROGRAM SUPPORT (OAPPS)
OFFICE OF AIR & RADIATION | U.S. EPA | WJC NORTH 5442-C
1200 PENNSYLVANIA AVE. NW | MC 6103A | WASHINGTON, D.C. | 20460 | USA
Shoaff.john@epa.gov | **1-202-564-0531 DIRECT | 1-202-257-1755 MOBILE**

Message

From: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Sent: 2/9/2021 2:55:51 AM
To: Grundler, Christopher [grundler.christopher@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Harvey, Reid [Harvey.Reid@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: RE: draft Revised CSAPR Update Rule (Preamble) for Your Review

Thank you so much Chris – I look forward to reviewing. Best,

Tomás

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 8, 2021 12:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: draft Revised CSAPR Update Rule (Preamble) for Your Review

Joe and Tomás:

Attached for your review is the draft Revised CSAPR Update Rule premble. We need to begin FAR this Friday, so please complete your review of the materials by COB Wednesday, February 10 so that we can incorporate your changes into the FAR package. We are available anytime during this period to answer questions or discuss the draft materials as needed.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Message

From: POLITICO Pro Energy [alert@email.politicopro.com]
Sent: 2/24/2021 2:19:01 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: UN Security Council hears of climate threat, does nothing

UN Security Council hears of climate threat, does nothing

By Karl Mathiesen

02/23/2021 09:18 PM EST

BRUSSELS — When it comes to climate change, bombs don't work, so the United Nations Security Council prefers words to action.

Tuesday saw the highest profile discussion of climate change in the U.N.'s central body for promoting global peace. But Russia, which holds a veto as a permanent member of the Council, warned against any move to recognize warming as a threat to global security.

Moscow's stance left the Security Council's U.K. presidency stabbing at a broken panic button.

"It is absolutely clear that climate change is a threat to our collective security and the security of our nations," said British Prime Minister Boris Johnson, who presided over the meeting.

Leaders from many of the Council's 15 members spoke of the droughts, floods, deserts, storms and rising seas eating away at the foundations of peace. They conjured up a future of regional collapse and millions of climate refugees looking for safe harbor.

Prime Minister of Antigua and Barbuda Gaston Browne challenged the world to imagine if 2017's Hurricane Irma had not only forced the near abandonment of Barbuda, but hit Antigua too.

"What would have happened to the entire population of my country?" he said.

In 2020, the U.S. under then President Donald Trump blocked a German effort to draft a sweeping Security Council resolution naming climate change as a threat to global security. Last week, the U.S. officially rejoined the Paris Agreement and on Monday, climate envoy John Kerry said "the climate crisis is indisputably a Security Council issue."

"The climate threat is so massive, so multifaceted," said Kerry, "we bury our heads in the sand at our own peril."

But Russia's representative to the U.N. Vasily Nebenzya said the Council should not take on the work of other U.N. agencies that specialize in climate, "where this is dealt with by professionals."

The Security Council has recognized climate change's role in instability in the Central African Republic, Darfur, the Democratic Republic of the Congo, Mali, Somalia and throughout West Africa.

But Nebenzya said the link between climate change and conflicts was specific to certain countries and there was "no justification" for making that connection globally. That "would even be dangerous," he said, because "considering the climate the root cause of security issues is a distraction from the true root causes."

As an example, Nebenzya blamed the destabilization of Africa's Sahel region on NATO's "willful" regime change campaign in 2011.

China, which has been Russia's ally on this issue in past meetings, voiced narrower concerns. "Any role the Security Council plays on climate change needs to fall within the Council's purview," said climate envoy Xie Zhenhua.

But Xie supported the core sentiment raised by Johnson, Kerry and others, leaving Russia isolated among the permanent members of the Council. "Climate change has become a pressing and serious threat to the survival, development and security of humankind," Xie said.

More aggressive pushback came from India's Environment Minister Prakash Javadekar. He said there was no "accepted methodology" to show climate change was a cause of conflicts.

The Intergovernmental Panel on Climate Change (IPCC) has frequently cited studies that link climate change and conflict. French scientist Valérie Masson-Delmotte, who co-chairs one of the working groups of the IPCC, said: "Aspects related to the threat [of climate change] to global peace have long been recognized."

Military leaders have also long accepted the connection and last week, NATO chief Jens Stoltenberg put climate change firmly on the alliance's agenda, calling it a "serious crisis multiplier."

The Council has traditionally been more comfortable using its powers to impose sanctions or deploy military force, said Janani Vivekananda, a climate diplomacy and security expert at the Adelphi think tank in Germany. But it has made past resolutions on some so-called "soft" or "non-traditional" security threats, usually focusing on diseases such as HIV, Ebola and, last year, on COVID-19.

Tunisian President Kais Saied said on Tuesday: "If pandemics are a threat and armed conflicts are, in turn, also a threat, climate change then similarly represents a threat that is no less serious than traditional threats."

If the suffering and strife caused by climate change was done at the hand of "some kind of despotic warlord or civil war," Johnson said, "then nobody would question the right and the duty of this U.N. Security Council to act."

Heiko Maas, the foreign minister of Germany, which is not currently a member of the Council, joined the meeting to make a plea for the Council to deliver "a strong resolution" linking the two issues.

Several leaders, including France's Emmanuel Macron, called for the creation of a U.N. special envoy for climate and security and for U.N. Secretary General António Guterres to deliver annual reports to the Council.

But unless Russia yields, the Security Council can do nothing.

That "does highlight some of the shortcomings" of the Council, said Vivekananda. "How it's quite toothless on, I would say, unarguably the security risk of the 21st century."

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Message

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Sent: 3/5/2021 7:13:42 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]; Millett, John [Millett.John@epa.gov]
Subject: Inside Climate inquiry on EtO emissions from Port Neches plant

Flag: Follow up

Hi all,
Below are the questions from Inside Climate News about EtO emissions from the Port Neches plant, and draft responses. Mike Koerber has approved these. If you have edits or concerns, please let me know.
Thanks,
Isabel

Ex. 5 Deliberative Process (DP)

Message

From: DeLuca, Isabel [DeLuca.Isabel@epa.gov]
Sent: 2/22/2021 10:00:33 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
Subject: FW: briefing/background materials for Mondays tribal prebrief
Attachments: NTAA Executive Committee Members.docx; 12.14.20 NTAA Letter to Biden Harris Transition Team.pdf; 2019-Tribal-Air-Infographic.pd.pdf; NTAA-EPA Meeting Agenda Virtual 2.21.pdf; 02.23.21 NTAA Goffman v2.docx

Plus draft talking points.

Message

From: Senter, Stephen [Senter.Stephen@epa.gov]
Sent: 2/16/2021 6:27:37 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: Koerber, Mike [Koerber.Mike@epa.gov]; Brown, Annette [Brown.Annette@epa.gov]
Subject: BRIEFING MATERIALS: Wednesday February 17 - Air Quality Designations for the 2010 Primary Sulfur Dioxide (SO2) National Ambient Air Quality Standard - Round 4
Attachments: Rd 4 SO2 Designations OAR Briefing_Final.docx

Please see the attached for the following briefing with Tomas:

Wednesday, February 17 @ 11 AM: Air Quality Designations for the 2010 Primary Sulfur Dioxide (SO2) National Ambient Air Quality Standard - Round 4

Please let me know if you have any questions.

2021

Assessment of EPA's Residential Wood Heater Certification Program

Test Report Review: Stoves & Central Heaters

NESCAUM

www.nescaum.org

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ASSESSMENT OF EPA'S RESIDENTIAL WOOD HEATER CERTIFICATION PROGRAM

Test Report Review: Stoves & Central Heaters

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Summary for Policymakers

The Northeast States for Coordinated Air Use Management (NESCAUM) in collaboration with the Alaska Department of Environmental Conservation (ADEC) conducted a review of the US Environmental Protection Agency's (EPA's) program to certify that new wood stoves and central heaters meet air pollution standards. For the over 250 certified wood heaters reviewed, this report finds a systemic failure of the entire certification process, including EPA's oversight and enforcement of its requirements. Wood heater manufacturers and the EPA-approved test laboratories they use for certification testing often deviate from test method requirements and the manufacturers' owner's manual instructions, creating the appearance of artificially lowering emissions in the lab in order to meet the certification standards. The descriptions of the wood heaters given in test reports do not always agree with what the manufacturers advertise in their marketing materials. All test reports have missing data elements.

Many of these discrepancies and omissions are clear violations of EPA requirements. Supposedly independent third-party reviewers are charged with flagging these problems, but do not. In fact, EPA notified the testing labs and third-party reviewers of some of the identified testing issues in 2019, but after that notice, this review found more recent test reports continuing to employ the same practices, and EPA continuing to approve them.

The unavoidable conclusion of this report is that EPA's certification program to ensure new wood heaters meet clean air requirements is dysfunctional. It is easily manipulated by manufacturers and testing laboratories. EPA has done little to no oversight and enforcement. Starting in 1988 when EPA first adopted air pollution standards for new wood stoves, it has never conducted a single audit to verify that a wood heater actually performs consistent with its certification test results, a span of over 30 years.

This raises serious concerns for state and local air quality and public health agencies. These agencies rely on a robust and credible certification program to address air pollution problems and public health harms caused by residential wood combustion. In order to protect public health, the agencies are pursuing policies to incentivize cleaner wood burning devices in communities suffering from high levels of wood smoke pollution. This includes providing financial incentives for the exchange of older devices with cleaner new wood heaters. If EPA's program for certifying wood heaters is not assuring that new devices are in fact cleaner than the ones they are replacing, then these efforts may be providing no health benefits while wasting scarce resources.

At its core, EPA's program as currently run allows the continued sale and installation of high-emitting devices, many of which will be in homes located in overburdened communities already suffering from environmental and other inequities. Once installed, these units will remain in use, emitting pollution for decades to come.

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Acknowledgments and Disclaimers

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NESCAUM would like to thank the following individuals for supporting or providing assistance to this effort:

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NESCAUM is a 501(c)(3) nonprofit association of eight state air quality agencies in the northeast United States whose mission is to provide technical and policy support to the air quality and climate programs of its member states. More information about NESCAUM is available at www.nescaum.org.

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GLOSSARY

Annual Fuel Use Efficiency (AFUE) –The percentage of heat delivered to a home over a year. AFUE differs from "thermal efficiency" in that it assesses performance over a variety of loads and transitional states.

Appliance – A wood heater subject to the Residential Wood Heater (RWH) New Source Performance Standards (NSPS).

ASTM – ASTM International, formerly known as the American Society for Testing and Materials, is an international organization that develops voluntary technical standards.

ASTM 2515 – The ASTM method for measuring particulate matter (PM) in a dilution tunnel. This method is identified as a federal reference method in the RWH NSPS.

ASTM 2618 – The ASTM method for measuring PM emissions from pellet and cordwood boilers. This method is identified as a federal reference method in the RWH NSPS.

ASTM 2779 – The ASTM method for measuring PM emissions from pellet stoves. This method is identified as a federal reference method in the RWH NSPS.

ASTM 2780 – The ASTM method for measuring PM emissions from cordwood stoves burning dimensional lumber. This method is identified as a federal reference method in the RWH NSPS.

ASTM 3053 – The ASTM method for measuring PM emissions from cordwood stoves burning cordwood. This method was approved as a broadly applicable alternative test method for certifications under the RWH NSPS.

CBI – Confidential business information.

Combustion Efficiency – The measure of combustion completeness, how well the appliance burns the fuel. This metric does not reflect the appliance's ability to deliver heat.

CSA B415 – Canadian Standard B415, "Performance Testing Of Solid-Fuel-Burning Stoves, Inserts, and Low-Burn-Rate Factory-Built Fireplaces."

Delivered Efficiency – A measurement of the energy delivered as heat to the building.

HHV – Higher Heating Value of Wood, a measurement of the actual usable energy from the fuel. This value includes the water and hydrogen content of the fuel.

LHV – Lower Heating Value of Wood. This value excludes the water and hydrogen content of the fuel. LHV efficiency values are, on average, 5-10 percent higher than HHV efficiencies.

M5G – The EPA method for measuring PM in a dilution tunnel.

M28 – The EPA method for measuring PM in a dilution tunnel from cordwood stoves using dimensional lumber.

M28 WHH – EPA M28 for Wood-fired Hydronic Heating Appliances.

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Nominal Output – The maximum hourly output of an appliance.

New Source Performance Standards, NSPS or RWH NSPS – EPA's "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces," 89 Fed. Reg. 13672-13753 (March 16, 2015).

RWH – Residential Wood Heating.

Stack Loss Efficiency (SLM) – A measure of efficiency based on fuel input minus all flue gas loss. This measure does not include jacket loss calculations. This is a theoretical calculation of delivered heat.

Thermal Efficiency – Efficiency as determined using the input/output method described in M28 OWHH.

Thermal Storage – A liquid-filled tank that stores excess heat generated by a wood heating appliance.

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Executive Summary

In 2015, the U.S. Environmental Protection Agency (EPA) adopted new emission standards for residential wood burning appliances under the Residential Wood Heater New Source Performance Standards (RWH NSPS).[1] These were the first revisions to the standards since 1988, a span of over 25 years, and included consideration of more advanced wood burning technologies and encompassed more wood heater appliance types than under the 1988 standards. The RWH NSPS rule was fully implemented through two steps, with the more stringent Step 2 numerical emission standards going into effect in May 2020.

While the new RWH NSPS requirements were long sought by state and local air quality officials, the final RWH NSPS program as implemented has raised serious concerns about the program's efficacy and the extent to which the updated RWH NSPS will provide in-use emission reductions commensurate with those standards. The 2015 RWH NSPS introduced the use of third-party certifiers accredited by the International Standards Organization (ISO) to implement several critical elements of the new rule, including reviewing certification test reports and conducting compliance inspections. The third-party reviewers are paid by the manufacturers and are often the same companies that perform the certification testing, creating a potential conflict of interest.

Based on these concerns, this study was undertaken to evaluate the effectiveness of the current framework that uses ISO-accreditation and EPA approval to qualify testing labs and an ISO-accredited third-party review to complete a test report review and issue a certificate of conformity, which then becomes part of an application package that goes to EPA's Office of Compliance Assurance (OECA) for review and certification. In this report, results are presented from reviews of available emission certification test reports for almost 250 appliances approved by EPA as compliant with the Step 2 emission standards under the 2015 RWH NSPS. The reviews evaluated (1) completeness of the certification test report data sets, (2) consistency of the EPA-approved test results, and (3) error magnitudes where they can be estimated. The analysis was conducted at the "screening" level, and was intended to identify areas where significant problems exist with the certification testing for which more detailed review by EPA may be warranted. It was not a full and complete review of the test reports, which likely would have revealed many more problems.

The analysis found persistent failures by EPA-approved labs to follow test methods and by third-party reviewers and EPA to identify deficiencies. The review also found a lack of effective oversight and enforcement by EPA. As a result, the existing program

[1] *Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces*, 80 Fed. Reg. 13672-13753 (March 16, 2015).

provides no confidence that new residential wood heaters are performing in a manner that better protects public health than the heaters they replace, and at the level required by federal standards. This has critical implications not only for public health, but also for the perceived cost-effectiveness of investments in residential wood heater change-out programs and tax credits given for the purchase of new wood burning appliances.

The study found that certification laboratories, sometimes at the manufacturer's direction, routinely employ atypical burn practices to improve the emission performance of wood heating devices during certification testing. These unusual practices are not commonly followed by the owners of these appliances after retail sale, and therefore are unlikely to represent actual in-use performance. In June 2019, EPA sent an email to ISO-accredited and EPA-approved labs and third-party certifiers identifying "discrepancies and concerns" it had observed in submitted test reports related to atypical test conditions. The reviewers in this study identified 40 reports certified after EPA sent its email in June 2019. The review found that all 40 of those certified test reports continued to contain at least one of the problematic test practices that EPA had explicitly identified as raising concerns.

There were also instances of prototypes being used for certification testing that are described with different physical parameters (e.g., firebox sizes) than the production models placed into retail sale that they are intended to represent. Different physical parameters between a tested prototype and the model offered for sale can adversely affect conclusions about in-use emissions performance.

In addition to the testing irregularities, this study uncovered a host of attendant issues that further undermine the program's integrity. EPA appears to have not completed any compliance audits in the more than 30 years since the original RWH NSPS rule in 1988. Compliance audits done strategically should be standard practice to verify units in the home perform in a manner consistent with their certification test results completed in the EPA-approved lab. The 2015 RWH NSPS program also lacks transparency as state and local agencies, along with the public, do not have easy access to sufficiently detailed certification test results and enforcement data that could be used to assess appliance performance.

States and communities with wood smoke pollution problems and a desire to reduce air toxics emissions rely on EPA's program to provide air quality improvements. However, EPA's failure to provide oversight and ensure the veracity of certification testing seriously undercuts the integrity of the RWH NSPS program and the likelihood that emission reductions are actually occurring, and sets the course for continued high emissions from new devices for years to come. To address this systemic problem, this study provides a set of recommendations to create a robust and effective RWH NSPS

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program. Some of the existing program weaknesses can be minimized through a commitment by EPA to enforce current requirements according to the clear language of the RWH NSPS. Others must be addressed through rule changes or as part of the next update to this NSPS, which is due in 2023.

ES-1. Background

Cordwood, pellets, and wood chips are important fuels for primary and secondary residential heating in the United States. According to the U.S. Energy Information Agency (EIA), 12.5 million homes (11 percent of the national total) used wood as an energy source in 2015, mainly for space heating. Wood heating reduces dependence on fossil fuels and promotes a local, indigenous fuel source. However, wood-burning is also a significant source of criteria and toxic air pollutant emissions.

Based on EPA's 2017 National Emissions Inventory (NEI), residential wood combustion emits approximately 340,000 tons of primary $PM_{2.5}$ annually, making it the largest direct source of particulate matter pollution in the country after road dust and fires (wildfire and prescribed).[2,3] Furthermore, a recent study has concluded that the level of wood burning may be significantly higher than represented by the NEI data.[4] These emissions have serious public health consequences, as residential wood heating can account for 10,000 to 40,000 premature deaths annually in the United States.[5,6] In states with large numbers of residential wood heating appliances, this emission source dominates health impacts from air pollution, especially during colder months.

State and local air quality agencies rely on standards and testing through EPA's emission certification program under the 2015 RWH NSPS to reduce emissions from new wood burning devices and to help attain and maintain the fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). Residential wood heating is a primary cause of nonattainment of the NAAQS for $PM_{2.5}$ in some areas. However, the

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[2] US EPA. *2017 National Emission Inventory* (April 2020). Available at: https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data.

[3] Primary PM is emitted directly from the source, as opposed to secondary particulate pollution that is created when sources emit precursor air contaminants, such as oxides of sulfur (SOx), oxides of nitrogen (NOx), volatile organic compounds (VOCs), and ammonia (NH_3), into the atmosphere that through chemical and physical processes form or help form $PM_{2.5}$.

[4] Commission for Environmental Cooperation. *Residential Wood Use Survey to Improve Black Carbon Emissions Inventory Data for Small-Scale Biomass Combustion*, Final Report. CEC, Montreal, Canada, (April 2019).

[5] Penn SL, Arunachalam S, Woody M, Heiger-Bernays W, Tripodis Y, Levy JI. Estimating state-specific contributions to $PM_{2.5}$- and O_3-related health burden from residential combustion and electricity generating unit emissions in the United States, *Environ Health Perspect* 125:324–332 (2017), http://dx.doi.org/10.1289/EHP550.

[6] Ciaizzo F, Ashok A, Waitz IA, Yim SHL, Barrett SRH. Air pollution and early deaths in the United States. Part I: Quantifying the impact of major sectors in 2005, *Atmospheric Environment* 79:198-208, (2013), https://doi.org/10.1016/j.atmosenv.2013.05.081.

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true scale of nonattainment is difficult to quantify because there are few regulatory air quality monitors located in rural areas where wood burning is most prevalent.

Residential wood heaters have a long useful life, therefore the benefits of new emission standards accrue slowly. To accelerate the turnover of older higher emitting appliances, government agencies, manufacturers, and nonprofit groups are investing millions of dollars in change-out programs. States and the federal government also offer tax credits that provide consumers with financial incentives to upgrade to new, presumably cleaner-burning wood heaters. In recognition of the public health impacts and financial stakes, this study was undertaken to investigate concerns about efficacy of the testing, review, and certification process adopted in the 2015 rule, and EPA's oversight and enforcement of the overall certification process.

ES-2. Methodology

In undertaking this study, the research team created a list of certification test reports to review using EPA's wood heater database to identify models that had been certified as Step 2 compliant. The team identified 131 cordwood stoves, 96 pellet stoves, and 28 central heating appliances that met these criteria, for a total of 255 devices. The 2015 RWH NSPS requires that a manufacturer post on its website a complete test report and summary report within 30 days of receiving certification, therefore the team attempted to locate all the test reports and post them to a central repository. However, difficulties were encountered finding some of the Step 2 appliance test reports, primarily pellet stove reports. Some manufacturers posted links to incorrect reports. In other instances, the reports could not be found after exhaustive online searches and a detailed review of the manufacturer's website. In some cases, reports were located with assistance from EPA. In total, 13 reports could not be found, and the team was unable to complete reviews of those certification test results.

For the 242 located reports, the next step in the process was to examine applicable regulations and guidance to identify criteria that would serve as the review's foundation. A regulatory basis document was created to catalog the review elements and the applicable regulatory citations. Given the large number of reports to review, the team chose to conduct a screening-level analysis focused on completeness of the reports, elements that could trigger certification revocation procedures, and elements that could trigger compliance audits of the tested devices.

Individual reviewers examined the test reports and entered data from these into a spreadsheet tool, which automatically created a preliminary determination as to whether significant problems existed with the certification testing for specific models based on the number of flags generated by data inputs. The initial reviewer was also able to include

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notes, comments, and recommendations. The review tool automatically generated warning flags based on data input to allow for objective determinations rather than subjective opinions. Once reviewers completed the data input, the review tool automatically generated summary sheets, which underwent review by a committee comprised of staff from multiple state and local air quality agencies. After assessing the findings, the committee arrived at a final determination on the adequacy of each certification test.

ES-3. Findings

This section summarizes the results of the investigation and provides examples from test reports to highlight the emission ramifications associated with some testing variables and assumptions. The analysis found considerable testing and review irregularities across all three categories of residential wood heating devices: cordwood stoves, pellet stoves, and central heating systems. Similar deficiencies were found on models from all three categories. For the purposes of brevity, this Executive Summary focuses primarily on the cumulative analysis results. Some specific issues with test assumptions and decisions identified through this investigation are highlighted as examples of the larger universe of failures uncovered. Readers are encouraged to review the full report for more scope and detail on the findings for specific aspects of the study.

ES-3.1.1. Cordwood Stove Findings

Reviewers identified 131 cordwood stoves for review. Of the 131 appliances targeted, reports could not be located for two appliances. None of the remaining 129 reports was determined to be complete. On average, the review found 8 revocation elements and 8 audit elements per test report. Deviations included failure to report mandatory elements, improper fueling procedures, and inaccurate firebox measurements.

ES-3.1.2. Pellet Stove Findings

The team identified 96 Step 2 certified pellet stove models to review as part of this research, but 10 test reports could not be found. Of the 86 pellet stove tests reviewed, all contained deficiencies, with an average of four revocation elements and five audit elements per test report. Although the rule requires EPA to review these reports for completeness, not a single report analyzed as part of this study was complete, yet each of these stoves was certified by EPA. Additionally, reports did not include mandatory elements such as PM measurements (6 appliances missing 1-hr filter data) or CO data (8 appliances had no data and 13 tests reported "zero" for CO emissions). Seventy-three percent of test reports contained contradictory information such as the Btu output from high load testing not matching the advertised Btu output.

ES-3.1.3. Central Heating System Findings

Reviewers identified 28 appliances for test report review; 15 cordwood boilers, 8 pellet boilers, 1 chip boiler, and 3 cordwood furnaces. None of the reports contained complete datasets or documented appliance settings to determine how the system operated during certification testing. All central heating unit test reports were incomplete. One test report could not be found. The review found that on average each central heating test report contained 9 revocation criteria flags and 12 audit criteria flags. The amount of data missing from each test report made it impossible to complete a full review of any of the 27 located reports.

ES-4. Recommendations for Program Improvement

A strong and broad response is needed to correct the failures of the RWH NSPS program identified through this study. Some of these program weaknesses can be minimized in the near-term if EPA makes a firm commitment, and follows through in good faith, to fully enforce the existing requirements according to the clear language of the RWH NSPS. Others must be addressed through rule changes.

ES-4.1. Third-Party Review Process

The EPA Inspector General should conduct an investigation of the third-party review system, and the responsible ISO bodies should call for an inquiry into their accreditation processes. EPA-approved laboratories that conduct certification testing should not be eligible to participate in the third-party review process. EPA should initiate action against third-party certifiers that have not adhered to test method and rule requirements. Finally, EPA should reassess the validity and viability of the third-party review process as a cornerstone of this program in the next update to the RWH NSPS.

ES-4.2. Review of Certification Test Results

EPA should conduct a detailed review of the problematic certification test reports identified in this study. The Agency should hold hearings and, where appropriate, revoke certification for models failing to meet the 2015 RWH NSPS rule requirements.

The findings of this report suggest that some manufacturers and EPA-approved laboratories may be "optimizing" certification tests to qualify models as Step 2 compliant by employing methods inconsistent with the approved protocols. At a minimum, models should undergo compliance audits as allowed per 40 CFR § 60.533(n) to verify the ability of production units to meet the emission standards to which the prototype was certified. To date, EPA has not conducted a single compliance audit during the more than 30 years this program has been in place. To address this, EPA should implement routine compliance audits on 10 percent of appliances each year. The audits should begin by targeting stove models that conducted non-representative tests. Appliances should not be

allowed to recertify their appliances without retesting. Waiver provisions that allow manufacturers to avoid retesting of appliances should be eliminated. Retesting should require addressing deficiencies identified in the appliance review sheets, and remote witnessing of testing.

ES-4.3. Targeting Public Funding to Appropriate Appliances

Government funds for wood heater change-out programs should be used only for the cleanest appliances with valid test reports. Government agencies and nonprofits funding change-out programs should disqualify units that are certified as Step 2 compliant but fail to meet the rule's requirements. Taxpayer-supported incentive programs, such as the 26 percent federal tax credit created under the BTU Act, EPA Targeted Airshed grants, and state-supported activities, should only apply to those appliances included on the list of approved models developed by the Alaska Department of Environmental Conservation. This currently is the only thorough review of certification test reports applying the 2015 RWH NSPS requirements.

ES-4.4. Improving Certification Test Methods

Current cordwood test methods used to certify residential wood heaters are poorly designed and often lack the specificity to ensure viable and comparable emission results. EPA should revoke or modify problematic test methods. The ASTM 3053 test should be revoked as a Broadly Applicable Test Method. EPA should expedite rulemaking or guidance to close loopholes and reduce deficiencies in ASTM and CSA test methods. Over the longer term, EPA should fully fund efforts to develop new test methods that bring integrity, reliability, and reality to testing outcomes.

ES-4.5. OECA Enforcement and Oversight

EPA should establish residential wood heaters as a high priority enforcement sector and immediately begin a permanent and effective enforcement initiative. EPA should take enforcement action against third-party certifiers that do not adhere to method and rule requirements. Enforcement action should be taken under 40 CFR § 50.535(b) against EPA-approved laboratories that fail to follow required procedures or practices with the goal of assuring lab independence and competence while eliminating coordination between labs and manufacturers that inappropriately "optimize" test results and modify appliances during testing. Finally, EPA should request a revision to ISO procedures to ensure the certification system's integrity and competence.

ES-4.6. Program Transparency

The results of this analysis demonstrate that significant improvements in transparency are needed for the certification and enforcement components of the RWH NSPS. For example, EPA-approved laboratory inspections and compliance assurance activities are

treated as confidential business information (CBI). There is no clear justification why these elements would be considered CBI as they do not pertain to typical CBI elements, such as product designs or manufacturing processes. Instead, EPA should eliminate claims of CBI for all compliance assurance monitoring activities. EPA should develop a strategy to ensure all manufacturers post complete non-CBI test reports and take enforcement action against all manufacturers who post incomplete non-CBI test reports, as defined by the rule. EPA should eliminate the use of confidential ISO compliance assurance audits, and all audit findings should be posted on the Enforcement and Compliance History Online (ECHO) database maintained by EPA. EPA should develop and require the use of a standardized certification report template.

ES-4.7. Investigating EPA Program Oversight and Enforcement

The EPA Inspector General or Congress should conduct a review of EPA's OECA and Office of Air Quality Planning and Standards (OAQPS) with a focus on identifying practices to improve Agency oversight and enforcement of the 2015 RWH NSPS program.

ES-5. Conclusions

This study covered 255 Step 2 certified wood heater models (131 cordwood stoves, 96 pellet stoves and 28 central heating appliances) to assess the ability of EPA's program to assure compliance with RWH NSPS regulations. Thirteen of the identified models did not have publicly available certification test reports, as required by the regulations. For the remainder, no report was found to be complete and in full compliance with RWH NSPS requirements. Seventy-two percent of the ISO/EPA certified reports contained issues listed as Criteria for Revocation of Certification under the 2015 RWH NSPS; 24 percent of the test reports were too incomplete to make determinations; and the remaining 4 percent had minor issues.

The third-party certification review process is highly ineffective at identifying and reporting testing irregularities. The documented failures in the third-party process may be due to poor program design, the lack of competency of the groups involved, improper complicity between third-party reviewers and manufacturers, or some combination of the three. Study results also highlight the lack of EPA's use of the auditing program to ensure production models are substantially similar to the prototypes used in certification testing, and that those offered for sale are meeting the applicable emission standards.

This analysis also uncovered a lack of transparency in the RWH NSPS program. Reviewers were often unable to access key data and information on certification testing. An overly broad assertion of confidential business information has removed non-proprietary compliance assurance activities from public review.

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Based on the identified shortcomings in this review, the 2015 RWH NSPS certification program fails to assure that new residential wood heaters are uniformly cleaner than past devices before the new standards went into effect. A flawed testing and review system coupled with a historical lack of EPA enforcement of basic program elements work in tandem to undermine the public health goals of the program. The end result is a program devoid of any credibility to ensure that new residential wood heating appliances are meeting federal emission standards, and instead gives every indication that scarce public resources are being misspent on incentive programs meant to encourage the more rapid introduction of cleaner wood burning appliances that truly reduce emissions.

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1. INTRODUCTION

In 1988, EPA first established emissions limits for new residential wood heaters (RWH) under the Clean Air Act provisions governing New Source Performance Standards (NSPS). In 2015, EPA updated its original RWH NSPS rule using a two-step process to phase in more stringent emission standards. The initial "Step 1" limits generally aligned with the then-current emissions performance of most covered devices, while more stringent "Step 2" emissions limits took effect for new wood burning appliances sold after May 15, 2020. This was intended to provide manufacturers with a period of several years to design and manufacture cleaner devices.

A wood heater model line is certified as compliant with the RWH NSPS emissions limits if emissions from a prototype appliance, as measured by an EPA-approved testing laboratory, conform to the rule requirements. The 2015 RWH NSPS updates retained key elements of the previous 1988 RWH NSPS rule, allowing manufacturers to test a prototype to certify a model line. However, EPA delegated critical program oversight and compliance assurance activities traditionally performed by EPA to International Standards Organization (ISO) accredited third-party certifiers approved by EPA. Those activities include certification and competency assessments of the EPA-approved test laboratories, review of test reports, and annual inspections to confirm that manufactured appliances reasonably reflect the prototype used for certification testing.

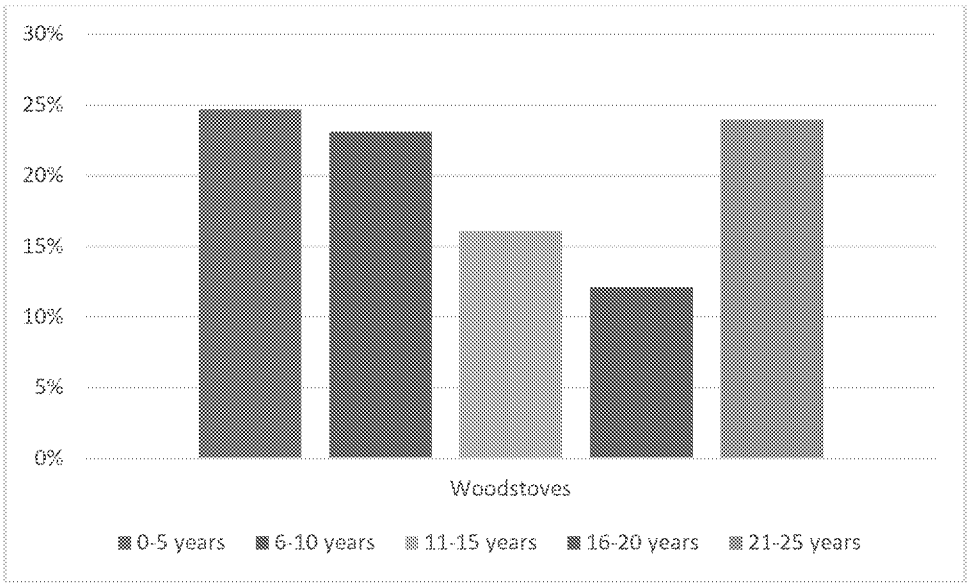
State and local agencies rely on EPA's federal certification program to ensure that new RWH models do not exceed the Step 2 limits in the RWH NSPS. Because there is no mechanism for follow-up assessment of performance in the field, it is essential that the procedures used to certify new wood burning devices accurately reflect emissions under normal use. This is crucial because, once installed, wood burning appliances typically remain in use for decades. A 2018 survey found that almost 25 percent of installed cordwood stoves were more than 20 years old (Figure 1).

In comments to EPA on the proposed 2015 rule, state agencies raised concerns about the third-party review system's efficacy and oversight.[7] In 2018, EPA released an Advanced Notice of Proposed Rulemaking (ANPRM) to solicit additional comments on improving the 2015 RWH NSPS program. Once again, states voiced concerns in comments on that

[7] NESCAUM Comments on Proposed Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters [79 Fed. Reg. 6330-6416 (February 3, 2014)], submitted May 5, 2014. Available at https://www.nescaum.org/documents/nescaum-comments-resid-wood-heaters-nsps-20140505.pdf.

ANPRM about the efficacy of the third-party review system and EPA's oversight of that program.[8]

Figure 1. 2018 National Survey - Reported Age of Woodstove[9]



In 2019, the Northeast States for Coordinated Air Use Management (NESCAUM) met with state agencies working on RWH programs. At that meeting, the states requested that NESCAUM undertake a review of certification test reports for appliances certified as meeting the 2015 RWH NSPS Step 2 emissions limits to assess the certification program's efficacy. That review employed procedures similar to those in a study conducted by Brookhaven National Laboratory for the New York State Energy Research and Development Authority (NYSERDA) in 2011 on EPA's Voluntary Hydronic Heater Program.[10] This report presents the results of the NESCAUM review and assesses the rigor of the current regulatory framework used to certify residential wood heating appliances. The report includes information on the following topics:

- the impact of residential wood heating,
- the regulatory structure of the federal RWH certification program,

[8] NESCAUM Comments on Advanced Notice of Proposed Rulemaking for New Source Performance Standards for Residential Wood Heaters, New Residential and Hydronic Heaters and Forced-Air Furnaces [83 Fed. Reg. 61585-61593 (November 30, 2018)], submitted February 12, 2019. Available at: https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0196-0017.

[9] Commission for Environmental Cooperation. *Residential Wood Use Survey to Improve Black Carbon Emissions Inventory Data for Small-Scale Biomass Combustion*, Final Report. CEC, Montreal, Canada (April 2019).

[10] Butcher, T, *Review of EPA Method 28 Outdoor Wood Hydronic Heater Test Results*, NYSERDA, Albany, NY (2011).

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- an overview of test methods used by the certification program,
- the regulatory requirements for certification testing,
- the methodology used to assess program efficacy,
- the findings from the review process, and
- conclusions and recommendations.

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2. BACKGROUND ON THE RESIDENTIAL WOOD HEATING SECTOR

2.1. Residential Wood Heating Emissions and Public Health Impacts

Cordwood, wood pellets, and wood chips are important primary and secondary residential heating fuels in the United States. According to the US Energy Information Agency (EIA), 1.8 million US homes use cordwood or wood pellets as their primary fuel. Another 10.3 million households use wood fuels for supplemental heating, which translates into 11 percent of all homes relying on wood as an energy source in 2015. Twenty-five percent of rural households use wood for heating compared with six percent of urban households.

While many view wood as a clean energy source, wood combustion is responsible for a disproportionately large share of pollutant emissions. According to EPA's National Emission Inventory, residential wood heating contributed approximately 340,000 tons of primary $PM_{2.5}$ in the United States in 2017.[11,12] After road dust and fires (wildfire and prescribed), residential wood heating was the largest source of primary $PM_{2.5}$ in the country, exceeding emissions from the highway and off-highway motor vehicle sectors combined (Figure 2).

Wood's importance as a fuel is regional in scale. Areas reliant on home heating oil with forested areas nearby tend to experience higher use.[13] Wood heating is highest in New England, where 21 percent of households use wood.[14] While wood heating may be regional, its impact has national significance. As highlighted in Figures 3 and 4, wood heating emissions were responsible for 98 percent of $PM_{2.5}$ emissions from the residential fuel combustion category. However, wood heating provided only 4 percent of the energy (in British thermal units) used for home heating.

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[11] US EPA. *2017 National Emission Inventory* (April 2020). Available at: https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data.

[12] Primary PM is emitted directly from the source, as distinguished from secondary PM, which is formed in the atmosphere by reactions of precursor air contaminants, such as oxides of sulfur (SOx), oxides of nitrogen (NOx), volatile organic compounds (VOCs), and ammonia (NH_3).

[14] EIA, 2020. *Winter Fuels Outlook*. Available at: https://www.eia.gov/outlooks/steo/report/winterfuels.php#:~:text=Wood,as%20a%20supplemental%20heating%20fuel.

Figure 2. Contributions by Source Category to National $PM_{2.5}$ Inventory (2017 NEI)[15]

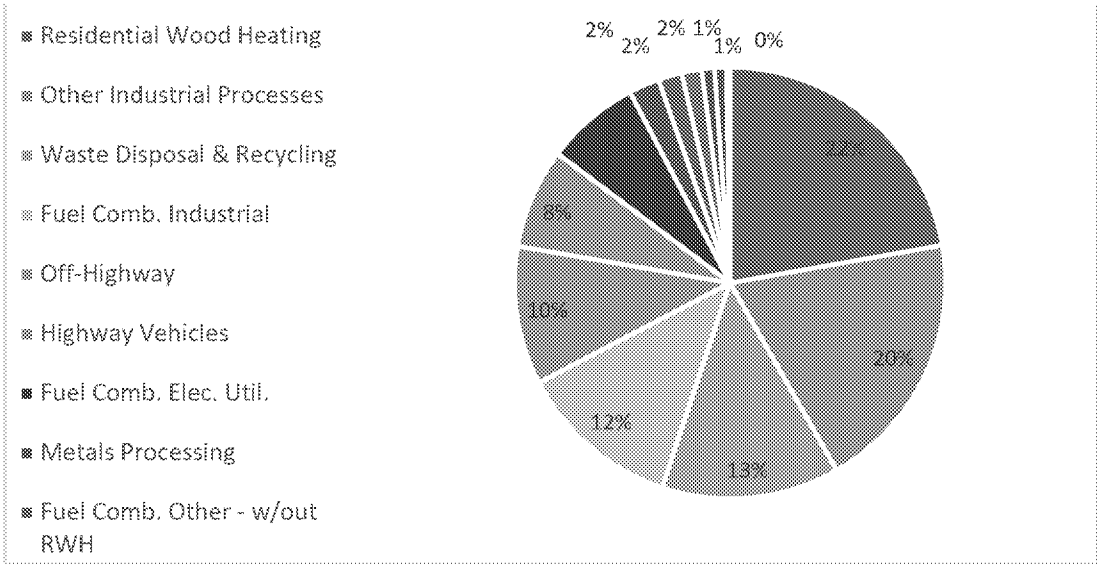
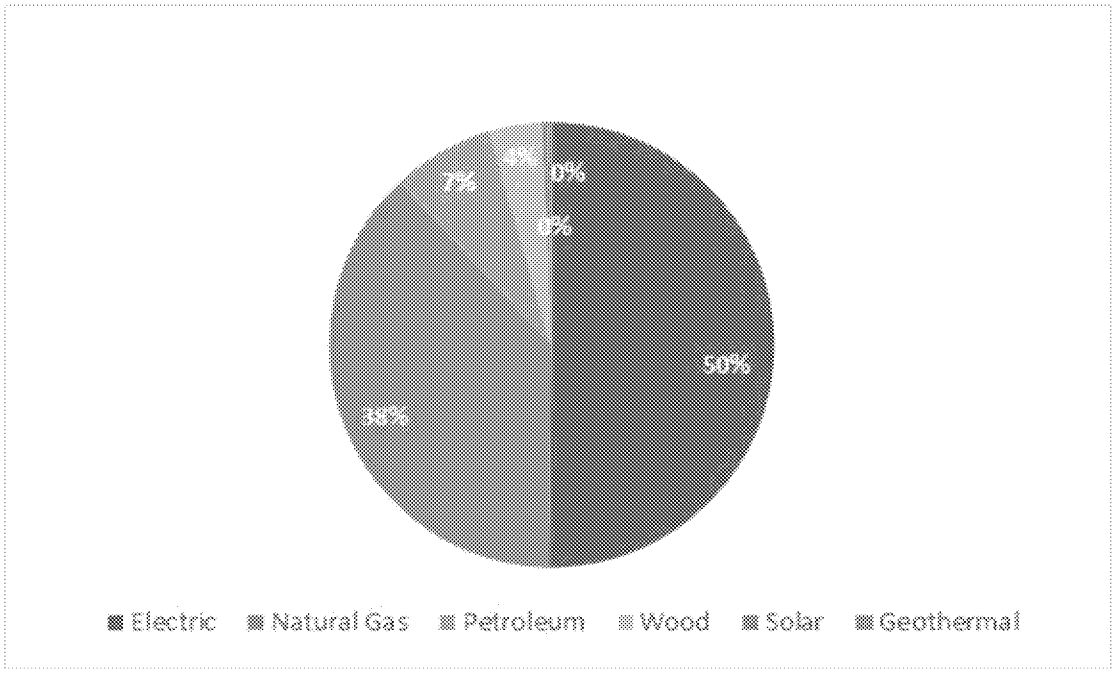
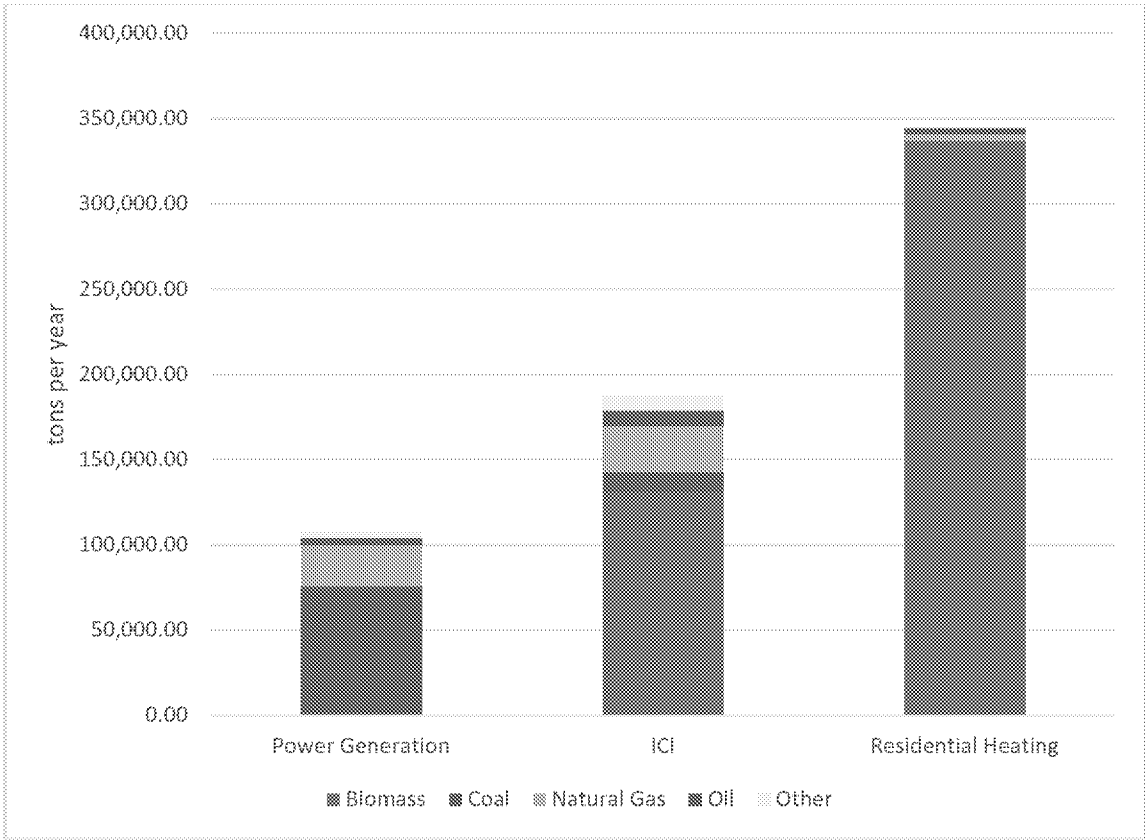


Figure 3. Energy Use for Residential Heating by Fuel Type (BTUs)



[15] US EPA. *2017 National Emission Inventory* (April 2020). Available at: https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data.

Figure 4. Fuel Combustion PM2.5 Emissions by Sector (tons per year)[16]



Exposure to $PM_{2.5}$ in wood smoke is associated with increased risk of respiratory and cardiac mortality, lung function decrements, exacerbation of lung disease, lung cancer, developmental and immunological effects, and premature mortality. A large percentage of the general population is particularly susceptible to those effects, including children, the elderly, and persons with respiratory or heart disease.[17] Studies estimate that RWH air pollutant emissions account for 10,000 – 40,000 premature deaths annually in the US.[18,19]

Wood combustion also emits polycyclic organic matter (POM), benzene, aldehydes, and other air toxics associated with respiratory and carcinogenic effects. EPA estimates that RWH accounts for 44 percent of POM emitted by all stationary and mobile sources and is

[16] ICI = Industrial, Commercial, and Institutional emission sources.
[17] Naeher LP, Brauer M, Lipsett M, Zelikoff JT, Simpson CD, Koenig JQ, Smith KR. Woodsmoke health effects: a review, *Inhal Toxicol* 19(1):67-106 (2007), doi:10.1080/08958370600985875.
[18] Penn SL, Arunachalam S, Woody M, Heiger-Bernays W, Tripodis Y, Levy JI. Estimating state-specific contributions to $PM_{2.5}$- and O_3-related health burden from residential combustion and electricity generating unit emissions in the United States, *Environ Health Perspect* 125:324–332 (2017), http://dx.doi.org/10.1289/EHP550.
[19] Ciaizzo F, Ashok A, Waitz IA, Yim SHL, Barrett SRH. Air pollution and early deaths in the United States. Part I: Quantifying the impact of major sectors in 2005, *Atmospheric Environment* 79:198-208 (2013), https://doi.org/10.1016/j.atmosenv.2013.05.081.

responsible for 25 percent of the cancer risk and 15 percent of the noncancer respiratory effects attributed to area source air toxics emissions.[20] In states where RWH is more prevalent, this emission source dominates health impacts from air pollution, especially during colder months.

Modeling and monitoring studies have demonstrated that wood smoke is a significant source of the PM measured in ambient air in many United States locations. Studies conducted by the Vermont Department of Environmental Conservation and NESCAUM found that, during the coldest and calmest winter days in Rutland, Vermont, wood smoke accounted for half or more of measured $PM_{2.5}$ levels.[21] A study in rural New York State found that more than 90 percent of carbonaceous $PM_{2.5}$ was associated with wood smoke and that winter nighttime peak $PM_{2.5}$ levels can exceed 100 $\mu g/m^3$.[22] These results are consistent with a field study by NESCAUM in the Adirondacks region that found significant localized pollution from wood burning that is closely associated with the higher population densities of towns and villages.[23] A 2016 study for New York State used modeling to assess wood heating impacts. Results from that study indicated that "a single polluting, wood-burning boiler or stove can lead to pollution levels above health-based air quality standards in the immediate vicinity of the source."[24] Wood smoke issues are not isolated to mountainous areas where valley temperature inversions exacerbate PM emission levels. Studies in Connecticut have found that, on cold winter days when ambient concentrations of $PM_{2.5}$ are elevated, observed wood smoke contributes more than 50 percent of hourly $PM_{2.5}$ concentrations.[25]

Modeling techniques have been used to evaluate the impact of RWH on air quality in locations that lack air quality monitoring data.[26] The results indicate that RWH can cause

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[20] US EPA. *National Air Toxics Assessment, 2011 NATA: Assessment Results* (2015). Available at http://www.epa.gov/national-air-toxics-assessment/2011-nata-assessment-results#nationwide.

[21] Allen GA, Babich P, Poirot R. *Evaluation of a New Approach for Real Time Assessment of Wood Smoke PM*, Paper #16. Presented at the Air & Waste Management Association Visibility Specialty Conference on Regional and Global Perspectives on Haze: Causes, Consequences and Controversies, Asheville, NC (October 25-29, 2004).

[22] Graham J, Johnson P. *Assessment of Carbonaceous PM2.5 for New York and the Region*. NYSERDA Report 08-01, Albany, NY (March 2008). Available at http://www.nescaum.org/documents/assessment-of-carbonaceous-pm-2-5-for- new-york-and-the-region/.

[23] Allen GA, Miller PJ, Rector LJ, Brauer M, Su JG. Characterization of Valley Winter Woodsmoke Concentrations in Northern NY Using Highly Time-Resolved Measurements, *Aerosol and Air Quality Research* 11:519–530 (2011), doi:10.4209/aaqr.2011.03.0031.

[24] Weiss L, *et al. New York State Wood Heat Report: An Energy, Environmental, and Market Assessment*. NYSERDA, Albany, NY (April 2016).

[25] Connecticut Dept. of Environmental Protection, Bureau of Air Management. *Evaluation of Wood Smoke Contribution to Particle Matter in Connecticut*. Hartford, CT (February 7, 2011). Available at http://www.ct.gov/deep/lib/deep/air/wood_stove_furnaces/ctdep_woodsmokefinalreport.pdf.

[26] Weiss L, *et al.*, *New York State Wood Heat Report: An Energy, Environmental, and Market Assessment*. NYSERDA, Albany, NY (2016).

high ambient $PM_{2.5}$ levels in some locations, even in states that do not have designated $PM_{2.5}$ non-attainment areas.

2.2. Uses of the EPA Certification Program

As discussed in this section, a number of programs rely on the RWH NSPS certification program to identify clean burning appliances needed to meet federal health standards for $PM_{2.5}$ or to address local air pollution concerns.

2.2.1. State and Local Regulations

State and local agencies have developed ordinances and regulations that rely on EPA certification to identify clean RWH devices. Examples of such state actions are provided at: https://www.epa.gov/burnwise/ordinances-and-regulations-wood-burning-appliances.

2.2.2. Tax Incentives and Rebates

Federal, state, and local governments use the EPA certification program as a basis for identifying RWH appliances that are eligible for tax incentives or rebates. These programs cannot achieve optimal emissions reductions if certified stoves do not perform well in the field. Recently, the federal government passed the Biomass Thermal Utilization Act (BTU Act), which gives a 26 percent federal tax credit to any residential wood heating system with an efficiency of 75 percent or more. IRS regulations for this program are not yet in place, but many believe that the EPA database should be the authority to determine which appliances can obtain that tax credit. The following state programs also provide tax incentives or rebates:

- Alabama – 100 percent tax deduction for RWH systems
- Arizona – $500 tax deduction
- Georgia – 100 percent tax deduction for RWH systems
- Idaho – 100 percent tax deduction applied over several years
- Maine – rebates of up to $6,000 for cordwood or pellet boilers
- Maryland – rebates of up to $500 for cordwood stoves and $700 for pellet stoves
- Montana – up to a $1,000 tax credit
- New Hampshire – rebates of 40 percent of the purchase cost ($10,000 cap) for automated wood-fired heating systems
- New York – rebates of $2,000 for pellet stoves and up to $23,000 for boilers
- Vermont – rebates of $6,000 for pellet boilers or furnaces, $650 for pellet stoves

2.2.3. Change-out Programs

Over the past decade, millions of taxpayer and enforcement settlement dollars have supported the purchase of new wood-burning appliances. These programs, which have taken place in many areas of the United States, seek to reduce RWH emissions by

replacing older wood-burning appliances with new ones that are NSPS-certified. In the western United States, change-out programs have been used to reduce PM emissions in non-attainment areas. EPA's Targeted Airshed grant program has also spent tens of millions of dollars to support change-outs in a subset of nonattainment areas having the worst levels of $PM_{2.5}$ pollution.

One of the most frequently touted change-out programs took place in Libby, Montana. During 2005 to 2008, every non-EPA-certified stove in that community was replaced. Replacing non-certified stoves with those that had been EPA-certified was expected to reduce this source category's impact by more than 75 percent. However, follow-up studies found that PM emissions from wood heating only declined by 28 percent.[27] Another study of this change-out program found that indoor PM emission reductions across homes and years were variable. A subset of households did not experience any reduction in PM following the change-out, while almost a quarter of the homes measured higher PM levels after than before the change-out.[28] This history indicates that without reliable certification procedures, replacing old stoves with newer models may not result in pollution reduction benefits.

2.3. EPA Certification Process

To obtain EPA certification of a new wood appliance model, the RWH NSPS requires completion of a valid certification test on a prototype of that model, conducted according to the specifications in the rule, that shows compliance with the applicable standard. Before performing the certification test, manufacturers must:

- Secure the services of an ISO-accredited/EPA-approved laboratory to conduct the test.
- Secure the services of an ISO-accredited/EPA-qualified third-party certifier to review the test report.
- Send a 30-day notification to EPA of the intent to test, using the form developed by EPA. The submission must identify the EPA-approved test laboratory, third-party certifier, test methods, model name, and test dates.

After an EPA-approved laboratory conducts the certification test, the test data must be submitted to EPA within 60 days. The manufacturer must then submit the draft test report to an ISO-accredited third-party reviewer for review. The third-party reviewer must

[27] Ward T, Palmer C, Noonan C. Fine Particulate Matter Source Apportionment Following a Large Woodstove Changeout Program in Libby, Montana, *Journal of the Air & Waste Management Association* 60:688-693 (2010), doi:10.3155/1047-3289.60.6.688.

[28] Noonan C, *et al.* Residential indoor PM2.5 in wood stove home: follow-up of the Libby Changeout Program. *Indoor Air* 22:492-500 (2012), https://doi.org/10.1111/j.1600-0668.2012.00789.x.

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review the test report and identify all issues that do not comply with RWH NSPS requirements. If the ISO-accredited third-party reviewer determines that the test was completed according to the RWH NSPS requirements and that the test report is complete, the reviewer issues a certificate of conformity.

Upon receipt of the certificate of conformity, the manufacturer can then submit an application package for certification to EPA's Office of Enforcement and Compliance Assurance (OECA). OECA reviews the submittal to determine that it is complete and accurate. A complete application package includes the following items:

- Certificate of conformity by an ISO/EPA-approved third-party certifier.
- Quality Assurance (QA) plan.
- Full emissions test report from an ISO-accredited/EPA-approved laboratory, including all documentation.
- Model name and design number.
- Engineering drawings and specifications of components that may affect emissions.
- Identification of confidential business information.
- Copy of warranties.
- Statements about stove construction materials; assurance program; sealing and storing the tested unit; manufacturing, labeling and owner's manuals; contracts with an EPA-approved laboratory and third-party certifier and approval to allow those entities to submit information on behalf of the manufacturer; posting of test report on manufacturer's web site; and acknowledgments that the certificate cannot be transferred and that it is unlawful to sell a unit without a valid certificate of compliance.
- Contact information for the manufacturer's responsible representative.
- A statement that the manufacturer has complied with and will continue to comply with all requirements pertaining to the certificate of compliance and that the manufacturer remains responsible for compliance regardless of any error by the EPA-approved test laboratory or third-party certifier.

OECA policy has targeted a timeframe of 90 days to review an application package. The 90-day timeline is a policy decision rather than a regulatory requirement. If, after review, OECA certifies the model line, the RWH NSPS requires the manufacturer to:

- Publicly post the complete non-CBI test report,
- Implement the QA plan via an ISO-accredited/EPA-approved third-party certifier, as detailed in the application, and
- Submit sales data per model, by state, every two years to OECA.

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2.3.1. Third-Party Report Review

The requirement for third-party conformance certifications was first introduced in the 2015 RWH NSPS, and EPA must approve the third-party reviewers. The application process includes demonstrating that a nationally recognized accrediting entity has accredited the reviewer to perform certifications and inspections under ISO-IEC Standards 17025, 17065, and 17020.

According to the 2015 RWH NSPS, the third-party certifiers must "[h]ave no conflict of interest and receive no financial benefit from the outcome of certification testing." The company that conducts a certification test, however, is allowed to also provide third-party review services for that test. The role of the third-party reviewer includes:

- Witnessing the test (optional component).
- Reviewing the test report to determine that all requirements of the RWH NSPS related to RWH testing were completed appropriately.
- Issuing a certificate of conformity.
- Conducting compliance assurance inspections to ensure that production models match the prototype that was tested.
- Assessing whether the manufacturer's QA plan meets the requirements of the rule.

Pursuant to the 2015 RWH NSPS, EPA relies heavily on the third-party reviewer to complete comprehensive reviews of test reports. Review of the test report by the ISO-accredited third-party must include confirmation that the following RWH NSPS requirements were met:

- Emissions testing was conducted in accordance with all regulatory requirements.
- The test report is complete and accurate.
- Instrumentation used for testing was properly calibrated.
- Testing data provides sufficient information to confirm that the appliance meets the emission standards listed in the regulation.
- The manufacturer's QA plan is sufficient.

If all of the above conditions are met, the third-party reviewer can issue a certificate of conformity.

2.3.2. Third-Party Compliance Assurance Monitoring Programs

Another new component of the 2015 RWH NSPS is the use of third-party reviewers to conduct QA audits of manufacturing facilities. These inspections are part of the compliance assurance monitoring programs submitted by manufacturers to EPA in the

application package for certification. The third-party certifier conducts regular (at least annual) unannounced inspections of the manufacturing facility to ensure that the manufacturer's QA plan is being implemented. Upon completion of the inspection, the third-party inspector must submit inspection reports to the manufacturer and OECA. Inspection reports must identify any deviations from the plan and specify corrective actions.

2.3.3. Approved Laboratories

The 2015 RWH NSPS requires all laboratories conducting certification tests for any appliance regulated under the RWH NSPS to obtain ISO/IEC 17025 accreditation. ISO/IEC 17025 is a quality management program designed to ensure testing laboratories are following proper procedures. To obtain ISO/IEC 17025 accreditation, laboratories must enter into a contract with an ISO accrediting agency and prepare documentation outlining the procedures that the laboratory uses, specific activities the laboratory undertakes, QA plans, and records that provide evidence that QA plans are put into practice.

The ISO accreditor reviews and assesses the documentation supplied by the laboratory and provides a report detailing any corrective action needed. When all needed corrective actions have been completed, the accreditation documents are submitted to a review body for approval. If approved, the laboratory receives a certification of accreditation. Once the laboratory obtains this accreditation, it can apply to the EPA Administrator for approval to conduct testing under the RWH NSPS rule. As part of that application, laboratories must:

- Submit documentation of accreditation under ISO-IEC Standard 17025.
- Agree to participate biennially in an independently operated proficiency testing program with no direct ties to the participating laboratories.
- Agree to allow the Administrator, regulatory agencies, and third-party certifiers access to observe certification testing.
- Agree to comply with calibration, reporting, and recordkeeping requirements that affect approved testing laboratories.
- Agree to perform a compliance audit test (at the manufacturer's expense at the testing cost normally charged to such manufacturer) if the laboratory is selected by the Administrator to conduct the compliance audit test of the manufacturer's model line.
- Have no conflict of interest and receive no financial benefit related to the outcome of testing.

- Agree to not perform initial certification tests on any models manufactured by a manufacturer for which the laboratory has conducted research and development design services within the last five years.
- Agree to seal any wood heater on which it performed certification tests immediately upon completion or suspension of certification testing with a laboratory-specific seal.
- Agree to immediately notify the Administrator of any suspended tests (including the reason(s) why and the projected retest date) and submit the operation and test data obtained for the suspended tests.

EPA certifies laboratories for operation under the RWH NSPS regulation for a five year period. After five years, the laboratory must submit a request for renewal.

2.4. EPA Certification Test Methods

The 2015 RWH NSPS specifies test methods to be used for certifying an appliance's compliance with that regulation. Those methods can be segregated into those that specify pollutant measurement procedures and those that address operation and fueling protocols.

2.4.1. Emission Measurement Methods

EPA references two test methods in the 2015 RWH NSPS for emission measurements:

- ASTM 2515-11 to measure particulate matter emissions.
- Canadian Standards Administration (CSA) B415.10-10 for efficiency, heat output, and carbon monoxide measurement.

2.4.2. Operation and Fueling Protocol for Stoves

EPA's operation and fueling protocols are specific to the type of stove being tested. Cordwood stoves may be tested using either EPA Method 28R, which uses dimensional lumber, or ASTM 3053-17, which uses cordwood. Both methods consist of individual runs that are conducted under steady-state conditions with no replicate testing. Pellet stoves use ASTM 2779-10, which is a single integrated test run. Table 1 summarizes those methods for certifying stoves.

Table 1. Comparison of Key Characteristics of EPA and ASTM Test Methods

Element	EPA M28	ASTM 3053-17	ASTM 2779
Appliance type	Variable & single burn rate stoves	Variable & single burn rate stoves	Pellet stoves
Summary	Four steady state runs at defined load categories	Two steady state load categories (low and medium) and one run with start-up, reload to high fire	One integrated run that encompasses four different fuel loads, coal bed conditions, and heat loads
Operational Parameters			
Number of loading events	1	1 in low and medium runs, 2 in start-up/high run	0
Start-up	No	Yes, combined with high fire	No
High fire	Yes	Yes, combined with start-up	Yes
Medium fire	Two burn rates assessed	Requires a burn setting higher than low but no other requirements	Yes, defined as 50% or less of high fire
Low fire	Yes	Yes	Yes
Replicates	None	None	None
Long charcoal tails	Yes	Yes	No
Precision and variability data	No	No	No
Fueling Parameters			
# of different load sizes by weight	1	2	NA
Fuel load volumes	7 lb/ft^3	10 lb/ft^3 for high; 12 lb/ft^3 for low and medium fire runs	NA
Fuel requirements	Dimensional Douglas fir at a specified moisture content	Any fuel species within allowed specific gravity range at a specified moisture content	No specifications

2.4.3. Operation and Fueling Protocol for Central Heaters

EPA requires the ASTM 2618 operation and fueling protocol in certification tests for cordwood hydronic heaters that do not have external thermal storage. Cordwood hydronic heaters with thermal storage can choose among three different test methods: (1) EPA Method 28WHH, (2) ASTM 2618-13, or (3) EPA Method 28WHH-PTS (for units with partial thermal storage). Pellet boilers without thermal storage must use ASTM 2618-13. Pellet boilers with external thermal storage must use an approved Alternative Test Method (ATM). Furnaces use CSA B415.1-10. Table 2 summarizes key elements of the central heating test methods.

Table 2. Comparison of Test Methods for Hydronic Heaters

	ASTM E2618-13	CSA B415.1-10	EPA M28WHH-PTS
Manual Loaded Fuel: Crib, Cord, or Both	Crib, Cordwood, or Pellet	Crib and Cordwood	Cordwood
Fuel Feed	Both	Both	Manual
PM Measurement Method	Dilution tunnel	Dilution tunnel	Dilution tunnel
PM Measurement	Total PM	Total PM	Total PM
PM Emission Metric	Weighted average or individual run, lb/MMBtu output	Simple average of test runs, lb/MMBtu output	Simple average, lb/MMBtu output
Wood Fuel Species	Any within specified density range	Any within specified density range	white or red oak
Moisture Range (dry basis)	19-25%	18-28%	19-25%
Method of Efficiency Determination	Thermal output	Stack loss method	Thermal output
Burn Rate Categories	Maximum output 25-50% 15-24% < 15%		Maximum output 25-50% 15-24% < 15%
PM Emission Rate (g/hr)	Yes – run average	No	Yes – by phase of burn cycle
Measures Start-up	No	No	Yes
Thermal Storage	Annex that applies to cordwood appliances only	No	Partial
Cold Start	Yes, if used with storage	No	Yes – Cat I and II
Upper Size Limit	No	500,000 Btu/hr	350,000 Btu/hr
Fuel Loading for Handfed Units (minimum)	10 lb/ft^3	10 lb/ft^3	10 lb/ft^3

2.4.4. Alternative Test Methods

Manufacturers can request approval from EPA to use an alternative test method (ATM). ATMs are most often requested if there is no designated test method in the rule that is applicable to the appliance that will be tested. Pellet boilers using thermal storage are an example of an appliance category that requires an ATM.

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3. METHODOLOGY

3.1. Study Approach

The project team used an approach similar to that used in a 2011 assessment of EPA's voluntary program for outdoor wood boilers[29] to assess the efficacy of the 2015 RWH NSPS certification program. The study reviewed available certification test reports for appliances certified as compliant with the Step 2 emission standards, evaluating: (1) completeness of the EPA-certified test reports, (2) conformance with test methods, and (3) error magnitudes (where sufficient information was available to estimate this parameter). The review, which is considered to be at the "screening" level, is intended to identify appliance models that have significant certification procedure issues, provide that information to EPA for a more detailed review, and present recommendations for improvements in the certification process.

The first step in the process was to identify the requirements that would constitute a complete certification application package according to the applicable regulations and guidance. This provided the criteria for determining report completeness. A regulatory basis document that compiles the identified review elements and the applicable regulatory citations is on the website https://dec.alaska.gov/air/burnwise/manufacturers-vendors/ maintained by the Alaska Department of Environmental Conservation (ADEC).

Once the team finalized the list of review criteria, an Excel-based tool was created to input test report data and related elements in a standardized format. Because the original Excel spreadsheet was large and complex, Excel summary sheets were created to streamline the review process. The summary sheets, which were used for the reviewers' assessments, pulled information from the original spreadsheet with the previously entered reports. To assess the review tool performance, three people reviewed the same report independently. A comparison of the three different reviews found that all three reviewers identified the same flags. All three reports obtained the same preliminary review determination. One reviewer spent additional time checking calculations in the underlying data. The reviewer who completed those calculations found additional issues. However, it was determined there were not sufficient resources to conduct an in-depth review of each report. Based on this effort's findings, the team agreed that the tool was sufficient to allow multiple people to complete test report reviews. A sample of the summary review sheet is provided in Figure 5.

[29] Butcher, T, *Review of EPA Method 28 Outdoor Wood Hydronic Heater Test Results*, NYSERDA, Albany, NY (2011).

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Figure 5. Example of the Review Template for Cordwood Stoves

Cordwood Summary Sheet Template

Summary of Review								
Manufacturer								
Model				Control approach				Non-Catalytic
Prelim review recomm.								
Red flags		Orange flags		Yellow flags				
Final Determination								Basis:
Testing Information	***Determination***							***Notes***
Test method								
Test Lab								
Third-party certifier								
Report certified								
Test Report Elements	***Determination***							***Notes***
Wght Avg PM emissions (g/			PM Highest 1-hr (g/hr)					
Wght Avg HHV Efficiency (%								
Wght Avg CO (g/hr)			Wght Avg CO (g/min)					
Max heat output (Btu/hr)								
Manufacturers instructions								
Firebox vol. test report								
Firebox dimensions			Longest dim. (in)					
Firebox calculations								
Efficiency calculations								
Burn rate calculations								
Raw data sheets								
Pre-burn completed by								
Pre-burn data								
Lab technician notes								
Doc. of run appropriateness								
Doc. of run validity								
Doc. of run anomalies								
Doc. of run burn rates								
Photos of the fuel loaded								
Test Run Data	***Determination***							***Notes***
Run #								
Run Category								
Burn rate (kg/hr)								
PM emissions by run (g/hr)								
PM 1-hr filter pull (g/hr)								
Filter data								
Train precision (%)								
Negative weights								
Negs handled appropriately								
Heat output by run (Btu/hr)								
CO by run (g/hr)								
HHV efficiency (%)								
Lowest burn rate tested								
All run data								
Appliance Fueling	***Determination***							***Notes***
Fuel species				Maple				

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Log length (in)								
Direction of longest dimens								
Log direction for testing								
Squared (ASTM test only)								
Debarked (ASTM test only)								
Load density (lb/ft3)								
Fuel moisture content load (%db)								
Fuel piece configuration								
Owners Manual Req.	***Determination***							***Notes***
Stack height								
Location recommendation								
Guidance on proper draft								
Fuel loading & reloading								
Fuel selection recomm.								
Improper fuels warnings								
Fire starting procedures								
Proper use of air controls								
Proper operation low								
Ash removal procedures								
Replacement parts								
Federal warning (C or NC)								
Warranty rights								
Catalytst operation								
Cat maintenance procedure								
Determining catalyst det. o								
Reporting	***Determination***							***Notes***
Summary tables complete								
All run data submitted								
Test report complete								
Owner manual complete								
Test dates								
30 Day notice submitted to								
Tested on the proposed dat								
Tested in consecutive days								
60 Day report to EPA								

After completing the review tool, reviewers used EPA's wood heater database (https://cfpub.epa.gov/oarweb/woodstove/index.cfm?fuseaction=app.about) to identify wood burning devices that had been certified as Step 2 compliant. The study identified 255 appliances certified as Step 2 – 131 cordwood stoves, 96 pellet stoves, and 28 central heaters.

The 2015 RWH NSPS rule requires manufacturers to post complete test reports publicly on their company website. The team attempted to locate the test reports for all Step 2 certifications and post them to a central repository but encountered difficulties in obtaining test reports for approximately 20 percent of the appliances. Some websites had links to incorrect test reports. In other instances, the test reports could not be found after exhaustive online searches and a detailed review of the manufacturer's website. In some cases, test reports were located by requesting assistance from OECA.

Individual reviewers examined the test reports and entered data either into the initial spreadsheet or directly into the review tool. The reviewer was also able to enter notes,

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comments, and recommendations. Reviews were initially entered into the large spreadsheet, and summary report sheets were exported from the review tool. Both the review tool and summary reports automatically generated warning flags, which provide an objective identification of significant problems with the testing or reporting.

A committee, comprised of staff from multiple state and local air quality agencies, met weekly to review summary data. During review meetings, the reviewer presented the findings for each summary sheet, and the committee discussed the results. After reviewing the findings, the committee made a final determination about issues in each report. In some cases, summaries underwent additional review or revisions based on EPA feedback.

In September 2020, manufacturers of room heating appliances were notified that summary sheets had been completed for their certification test reports. The manufacturers were given the opportunity to request a review of the sheets before ADEC publicly posted the information. The initial posting occurred in November 2020, and an update occurred in February 2021. Manufacturers were allowed to address deficiencies identified by reviewers by providing new information to ADEC or by highlighting where the information existed in the report. Manufacturer review only slightly modified review findings. After manufacturers reviewed existing or submitted new data, less than 10 percent of the deficiencies could be resolved.

ADEC maintains a copy of the original review sheet and the updated version. Summary sheets for cordwood stoves and pellet stoves can be found on the ADEC website https://dec.alaska.gov/air/burnwise/manufacturers-vendors/. The information in this report was current as of February 2021. ADEC plans to update the summary sheets as it compiles new appliance reviews and as manufacturers submit revised and additional information. Central heating appliances were not included as part of ADEC's initial regulatory efforts. However, summary sheets and reviews were also completed for these appliances in this study.

3.2. Review Elements

Given the large number of test reports, the team conducted a focused screening-level review. The first step was to determine the completeness of the reports. The second step was to determine the need for follow-up action. Defect and deficiency flags generated by the review were segregated into three categories: (1) required reporting to assess report completeness, (2) revocation elements, and (3) questionable practices that should trigger compliance audits. These review elements were based on the specifications in the RWH NSPS rule and the test methods that the rule references. The regulatory basis for each element is detailed in a report posted by ADEC called "ADEC Regulatory Basis," which can be accessed from the ADEC webpage link given in the above paragraph. Results of

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appliance reviews can be found in the following Sections 4.1 through 4.3. Reviewers also assessed overarching rule reporting and compliance monitoring components. The results of this effort can be found in Section 4.4.

Based on the identified deficiencies, the study divided test reports into three categories: (1) findings to be submitted to OECA with a request it take action under the revocation of certification provisions in the RWH NSPS [40 CFR § 60.533(l)/60.5475(l)], (2) findings to be submitted to OECA with a request it take action under the audit provisions in 40 CFR § 60.533(n)/60.5475(n), and (3) no action. The following sections detail the review elements that determined categorizing for EPA action or no action.

3.2.1. Report Completeness

Reviewers evaluated reports to determine whether they included the elements required in the RWH NSPS for a complete test report. The required elements, as identified in 40 CFR § 60.537/60.5479, are as follows:

- Full test report
- Raw data sheets
- Laboratory technician notes
- Calculations
- Test results for all test runs
- Discussions of the appropriateness and validity of all test runs, including runs attempted but not completed
- Detailed discussion of:
    - all anomalies
    - whether all burn rate categories were properly achieved
    - any data not used in the calculations
    - for any test runs not completed, the data that were collected, and the reason that the test run was not completed
    - documentation that the burn rate for the low burn rate category was no greater than the rate that an operator can achieve in-home use and no greater than is advertised by the manufacturer or retailer.

Reports that contained all the elements listed above were deemed complete. Reports with two or fewer items flagged as missing were determined to be incomplete-minor. Reports flagged for three or more elements were deemed incomplete – major. If no test report could be found for the appliance, the appliance name was sent to OECA.

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3.2.2. Recommendation for Action – 40 CFR § 60.533/60.5475(l)

The elements identified in 40 CFR § 60.533(l)/60.5475(l) were reviewed to identify appliances that should be recommended for revocation procedures. The regulatory language states that a revocation determination "will be based on all available evidence, including but not limited to" the specific elements listed in that section. Note that the RWH NSPS does not require a compliance audit to trigger revocation action. Instead, revocation is based on the documentation submitted to EPA. The following elements are listed in those sections as evidence that EPA should consider when making revocation decisions:

- § 60.533/5475(l)(ii) A finding that the certification test was not valid, based on problems or irregularities with the certification test or its documentation. A flag for this criterion was triggered by anomalies or irregularities in the test results. For example, reporting negative emission rates or reporting theoretically impossible efficiency results would trigger a flag under this criterion.

- § 60.533/5475(l)(iii) A finding that the labeling of the wood heater line, the owner's manual, or the associated marketing information does not comply with the requirements of § 60.536/60.5478, which specify that each affected wood heater offered for sale by a commercial owner must be accompanied by an owner's manual that includes the information listed in that section pertaining to installation and to operation and maintenance. That information "must be adequate to enable consumers to achieve optimal emissions performance" and "consistent with the operating instructions provided by the manufacturer to the approved test laboratory for operating the wood heater during certification testing, except for details of the certification test that would not be relevant to the user." Examples of flags generated under these criteria include reports that list firebox volumes, fuel requirements, or heat outputs that differ from those used in the certification test.

- § 60.533/5475(l)(iv) Failure by the manufacturer to comply with reporting and recordkeeping requirements of § 60.5479. An example of flags generated under this reporting criterion would be (1) failure to conduct testing at a burn rate no lower than the homeowner can achieve during in-home use and no greater than advertised by the manufacturer or retailer, (2) failure to measure or report carbon monoxide, (3) failure to measure or report efficiency, or (4) failure to measure or report 1-hour filter values as required under sections § 60.534 or § 60.476.

- § 60.533/5475(l)(vii) Failure of the approved laboratory to test the wood heater according to the specified methods. Examples of flags generated under this

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criterion include failure to follow procedures specified in the test methods, such as conditioning requirements, burn rate criteria, or train precision, and failure to provide required calculations.

3.3. Recommendation for Action – 40 CFR § 60.533(n)/60.5475(n)

40 CFR § 60.533(n) and § 60.5475(n) provide EPA with the authority to conduct audit tests or to direct the manufacturer to have an audit test performed by an approved laboratory selected by EPA at the expense of the manufacturer. Reviews that did not flag revocation elements but instead identified deficiencies potentially affecting appliance performance or indicated the use of procedures allowed by the test methods but raised questions about test appropriateness were recommended to EPA for action under the audit provisions in 40 CFR § 60.533(n) or § 60.5475(n). These elements may not be directly addressed by test methods or rule requirements but could affect in-use emissions performance.

3.4. Recommendation for No Action

Certification test reports that were determined to be complete and that followed the test method and rule requirements obtained "no action" recommendations.

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4. REVIEW FINDINGS

The review team assessed certification test reports for 242 out of 255 room and central heaters approved by EPA as Step 2 compliant. Test reports could not be found for 13 devices. The reports were grouped for analysis by appliance type (room heaters or central heaters), and the room heaters were further divided into two subcategories – cordwood and pellet stoves. This section presents the analysis findings.

4.1. Cordwood Stoves

The team identified 131 cordwood stoves for review, but could not find test reports for two of the stoves. Three PM emissions control approaches are typically employed in cordwood stoves: (1) catalytic controls, (2) non-catalytic controls using secondary combustion to reduce emissions, and (3) a combination of secondary combustion and catalytic controls, typically referred to as the hybrid approach. Eighty-five of the appliances reviewed had non-catalytic controls, thirty-one had catalytic controls, and thirteen used a hybrid approach.

Cordwood stove certification tests can be conducted using either of two test methods: (1) M28R, which is conducted on dimensional lumber fuel, or (2) ASTM 3053-17, which uses cordwood fuel. Sixty of the appliances evaluated used M28R for certification testing, and sixty-nine used ASTM 3053-17. The control approach and test method for two appliances could not be assessed because reviewers could not find their certification test reports on the manufacturers' websites.

4.1.1. Complete Test Reports

The RWH NSPS requires manufacturers to submit "[a]ll documentation pertaining to a valid certification test, including the complete test report and, for all test runs: Raw data sheets, laboratory technician notes, calculations, and test results" as part of the application for a certificate of compliance with that standard [40 CFR § 60.533(b)(5)]. Within 30 days of receiving certification, "the manufacturer must make the full non-CBI test report and the summary of the test report available to the public on the manufacturer's Web site" [40 CFR § 60.537(g)].

For cordwood stoves, the reviewers identified 131 devices certified as Step 2 and were able to obtain test reports for 129 of them. The reviewers assessed report completeness by identifying the number of non-reported elements on the summary sheets. The summary sheets listed 36 reporting elements. Report completeness was based on the number of missing elements. Table 3 provides the findings for some of the critical reporting elements. Based on its assessment, each report was assigned to one of the following five categories:

- *Complete:* All non-CBI elements were included in the report.
- *Incomplete-Minor:* One to three elements (less than 10 percent) were missing from the test report.
- *Incomplete-Major:* Four to ten (10 – 30 percent) elements were missing from the test report.
- *Incomplete-Seriously Deficient:* More than ten elements (>30 percent of the test reports) were missing from the test report.
- *Missing:* Test report could not be obtained by searching the manufacturer's website and by conducting additional web searches.

Table 3. Assessment of Report Completeness – Cordwood Stoves

Report Element		Reported	Not Reported
Raw data sheets	Data for all test runs	52	79
	Manu. instructions	65	66
	Firebox data	56	75
	Required photos	93	38
	Fuel loading	102	29
	Fuel characteristics[30]	100	31
	Fuel loading density	102	29
	Fuel moisture	107	24
	Filter data	99	32
Calculations	Firebox	32	99
	Efficiency	114	17
	Train precision	68	63
Lab technician notes		98	33
Appliance settings		73	58
Heat output		128	3
Burn rate categories		122	9
Discussion of unused data		74	57
Conditioning		85	46
Test location		125	6
Third-party certifier		113	18
Third-party report		85	46

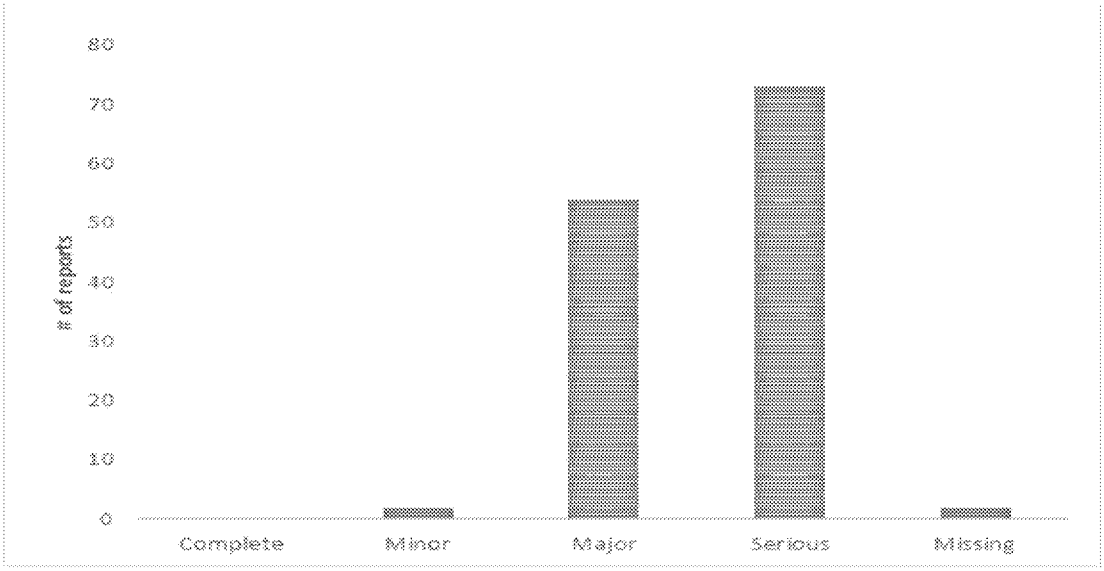
According to the above criteria, none of the 131 identified Step 2 cordwood stoves had complete reports (Figure 6). Two reports had minor deficiencies, 54 reports had major

[30] This element addresses fuel length and for ASTM 3053, the fuel piece characteristics.

deficiencies, and 73 reports had serious deficiencies. Two reports could not be found and were flagged as subject to revocation criteria for lack of public availability.

Of the 129 obtained cordwood stove reports, 13 consisted of only a few pages with little to no information, 21 reports did not include raw datasheets, and 31 reports failed to include laboratory technician notes from the testing.

Figure 6. Cordwood Stove Certification Test Report Completeness



Additional material may have been submitted to EPA OECA as part of the certification application package, but that information was not available to the reviewers. If this additional material was submitted, it illustrates that without access to those elements, states and other parties that rely on EPA's certification process cannot conduct a full review of test results.

We note that during this study, reviewers downloaded different versions of the same test for some appliances, raising concerns about version control and EPA oversight of the data. EPA could resolve this issue by posting the non-CBI reports and all supporting data received as part of certification application packages in a centralized database using its online tools, like the EPA ECHO (Enforcement and Compliance History Online) database. This step would improve access to the complete reports and increase confidence that the reports posted online are the reports EPA reviewed.

4.1.2. Revocation Criteria – Testing Irregularities – Mandatory Reporting Elements

The 2015 RWH NSPS states that a certification can be revoked if EPA finds that the certification test was not valid "based on problems or irregularities with the certification

test or its documentation" [40 CFR § 60.533(l)(ii)]. In this study, evaluating testing irregularities included a review of the handling of negative filter weights, as described in this subsection.

Negative Filter Values

ASTM 2515 uses gravimetric analysis to determine PM measurements. Negative filter weights occur when the filter weight after testing is less than the filter weight measured prior to conducting the test. ASTM 3053-17 does not specify how EPA-approved laboratories should handle negative filter values, either in recovery procedures or in calculations. NESCAUM contacted EPA to determine whether guidance had been provided to EPA-approved laboratories regarding proper procedures for addressing negative values. EPA reported that no guidelines had been requested or provided. Because EPA could not provide guidance on this issue, reviewers turned to test methods from the Oregon Department of Environmental Quality (OR DEQ). ASTM 2515, the PM measurement method, is a derivative of EPA Method 5G, which is itself derived from an OR DEQ measurement method. The original OR DEQ method required acetone rinses of the testing train to ensure all particulate materials had been captured. The OR DEQ method clearly articulates that "[t]he blank corrections for the filter and/or rinse samples are '0', if the blank filter or rinse samples yield negative weight gains."[31]

If negative filter weight values were reported, reviewers assessed whether the EPA-approved labs used acetone rinses or other activities to ensure all particulate matter had been recovered. The summary sheet tracked if test reports included negative filter weights. A separate cell tabulated if the negative values were handled appropriately.

Reports were classified as handling negative values appropriately if they indicated that the tester used procedures like acetone rinses to ensure capture of all materials. Reports that assumed negative values were captured elsewhere without identifying any recovery procedures were deemed "handled inappropriately."

Reviewers found that for the 129 located test reports:

- 25 percent (32) of test reports did not provide filter weight information,
- 45 percent (58) reported negative filter weights, and
- 32 percent (41) reported no negative filter weights.

Of the 58 reports with negative filter weights:

[31] Oregon Department of Environmental Quality, *Source Sampling Manual*, Volume 1, revised November 2018, p. C-8.14.

- 9 reports appeared to use recovery methods to assure all materials were included in the filter measurement data.
- 49 reports appear to assume, without confirmation, that the PM filter mass lost was captured elsewhere.

Reports that had negative values and did not report the use of recovery procedures were flagged for revocation criteria. Given the large number of reports with negative values, the lack of EPA guidance on proper procedures for handling negative values is a significant omission in the RWH NSPS program.

4.1.3. Revocation Criteria – Compliance with § 60.536 Requirements

Another revocation criterion specified in the 2015 RWH NSPS is a finding that "the labeling of the wood heater model line, the owner's manual or the associated marketing material does not comply with the requirements detailed in 40 CFR 60.536" [40 CFR § 60.533(l)(ii)]. 40 CFR § 60.536(g)(1) states that information in the owner's manual and associated material "must be consistent with the operating instructions provided by the manufacturer to the approved test laboratory for operating the wood heater during certification testing, except details that would not be relevant to the user." To assess conformance with these requirements, reviewers compared public information published by the manufacturer with the test report information on appliance parameters (firebox volume, heat output, and efficiency ratings) and the manufacturer instructions to the EPA-approved laboratory. The public information reviewed included owner's manuals, product brochures, and websites because "associated marketing materials" are included in this requirement.

Appliance Parameters – Firebox Volume

Firebox volumes are a foundational metric for conducting certification testing. The firebox volume determines the amount of fuel and the log length used for certification testing. Discrepancies in the firebox volume and its required fuel parameters will influence measured PM emissions during testing. Reviewers compared the firebox volume used for certification testing with the firebox volume in manufacturers' marketing materials, including the owner's manual, websites, and product brochures. Of the 129 cordwood stove test reports reviewed:

- 46 percent (59) reported a different firebox volume in marketing materials than the volume reported in the certification test report. 71 percent (42 of the 59) reported differences greater than five percent;
- 11 percent (14) did not list the firebox dimensions in marketing materials or did not report firebox volume in the test report; and
- 43 percent (56) had firebox volumes that matched.

The reviewers categorized the extent of the deviation in firebox volume for appliances with firebox volumes that did not match. Units with variations less than 5 percent were flagged for audit criteria. Appliances with a deviation greater than 5 percent were flagged under revocation criteria.

Appliance Parameters – Heat Output

Heat output is an important metric because the test methods require testing at maximum heat output. When the maximum heat output reported in the manufacturer's materials is greater than the maximum output reported during testing, the certification test may not be adequate or representative. The comparison of the maximum heat output in the certification test report with that listed in the manufacturer's materials found that:

- 75 percent (96) of the appliances reported higher heat output values in the marketing materials than the output reported in the certification testing report,
- 3 percent (4) did not report maximum heat output ratings in the marketing materials, and
- 22 percent (29) had maximum heat output data in the marketing materials that matched the test report.

Appliances were flagged for revocation criteria if the heat output ratings in the manufacturer's materials deviated by more than 10 percent from the heat output achieved during certification testing.

Appliance Parameters – Efficiency

The comparison of efficiency data reported in marketing materials and in certification test reports found that 28 percent (36) of the appliances had conflicting data, 7 percent (9) did not report efficiency information in their marketing materials, and 65 percent (84) had data that matched. Appliances were flagged for revocation criteria if the efficiency ratings in the marketing materials deviated from the average efficiency ratings given in the test reports.

Manufacturer's Instructions to Testing Laboratories

The 2015 RWH NSPS requires the manufacturer's instructions used for certification testing not contradict the operational instructions found in the owner's manual. Specifically, 40 CFR § 60.536(g)(1) states that the information in the owner's manual "must be consistent with the operating instructions provided by the manufacturer to the approved test laboratory for operating the wood heater during certification testing, except details that would not be relevant to the user."

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Reviewers compared the manufacturer's instructions to the EPA-approved testing laboratories and the information in the owner's manual for air setting and fuel loading, which are two parameters identified in § 60.536(g). Of the 129 test reports reviewed, 64 test reports (51 percent) did not contain the manufacturer's instructions to the testing laboratory. Reviews assessed fuel loading procedures and air setting data in the 65 reports that had instructions. Areas not considered contradictory instructions were where manufacturers gave specific instructions, such as fuel placement, piece size, and spacing, to the lab but did not include those directions in the owner's manual. Contradictions were identified as lab instructions clearly deviating from instructions in owner's manuals. Issues such as bypass operation and air settings were identified as contradictions. The review found that 39 percent (25) of the test report instructions contradicted the owner's manual instructions. Significantly more reports would be flagged for this criteria if EPA determined that all directions given to the lab by the manufacturer must be included in the owner's manual as instructions.

Assessing the Impact of Contradictory Instructions

NESCAUM tested two medium-sized Step 2 certified stoves to assess the effect of contradictory manufacturer's instructions on emissions measurements (labelled here as "Stove 7" and "Stove 9"). Each stove was tested in two ways: (1) according to the test method used in the certification test and the instructions provided to the certification laboratory, and (2) using the ASTM3053-17 cordwood test and the instructions in the owner's manual. Stove 7 had hybrid (non-catalytic and catalytic) emissions controls and was certified using M28R as emitting less than 1 gram of PM per hour (g/hr). Stove 9 had non-catalytic emission controls and was certified using ASTM 3053-17 at 1.6 g/hr. Figure 7 shows the difference in fuel loading configuration in the two Stove 9 tests.

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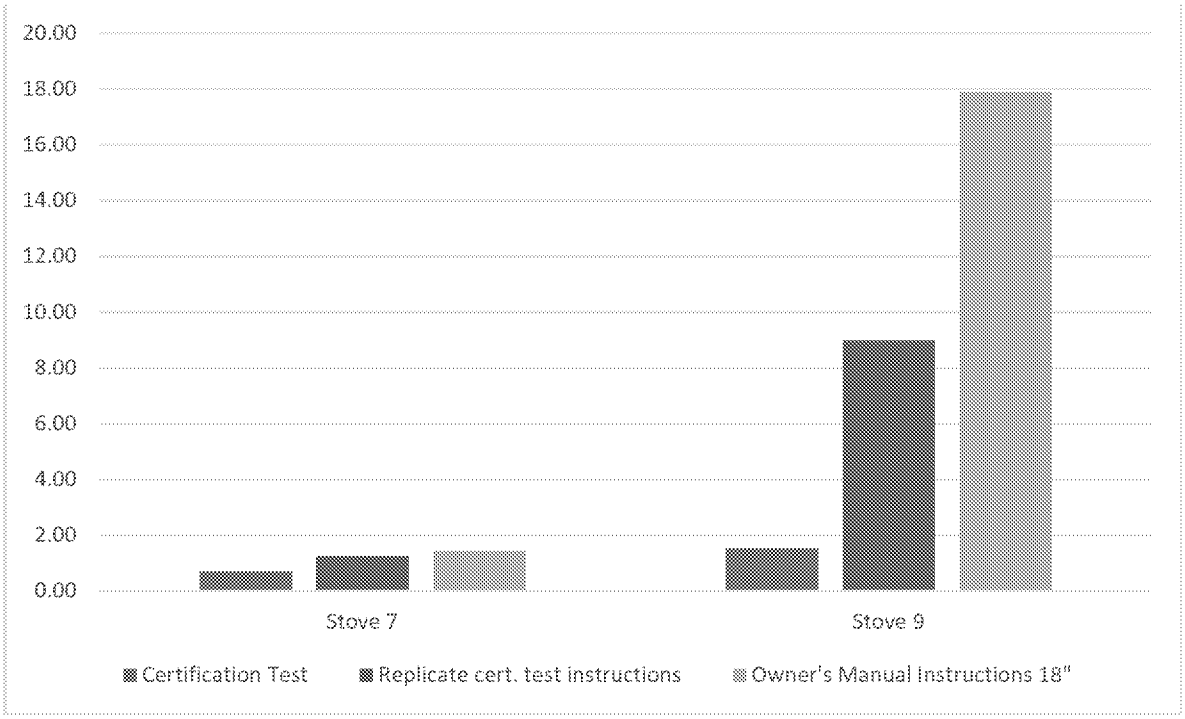
Figure 7. Fuel Loading Configuration – Stove 9

For each of the two stoves, the emission rates reported in the certification test report were compared to those measured in the NESCAUM study test that replicated the certification testing instructions and with the test performed using the instructions in the owner's manual. Those comparisons are shown in Figure 8. For Stove 7, the difference between the certification value and the replicate test, both of which were conducted with the M28R procedures, was less than 0.5 g/hr. Testing Stove 7 with the ASTM 3053-17 cordwood test according to the owner's manual instructions increased emissions by 100 percent from the certified value and 13 percent from the study test that replicated the certification testing procedures for that stove.

Stove 9 showed far more variability, although in that stove, ASTM 3053-17 was used for all tests. In Stove 9, the emission rate in the study test that replicated certification procedures was almost 500 percent of that in the certification test, an increase of more than 6 g/hr. The emission rate in the test performed according to the owner's manual instructions was more than 1,000 percent of the certification value, an increase of 16 g/hr. Results from this analysis indicate the need for consistency in operating instructions. It also highlights the need for EPA to conduct compliance audits to identify stoves, like Stove 9, for which certification results cannot be consistently reproduced.

Figure 8. Comparison of Emissions Rates (g/hr) in Tests on Two (2) Step 2 Certified Stoves



4.1.4. Revocation Criteria – Failure to Follow Test Methods

Failure to follow the test methods specified in 40 CFR § 60.534 is a criterion for revocation under 40 CFR § 60.533(l)(vii). Several elements were evaluated to determine whether certification tests were performed according to the specified methods.

Reporting Elements

Reviewers examined the test reports to determine whether they included the PM emissions in the first hour of the test [40 CFR § 60.534(d)], as well as the efficiency, heat output, and carbon monoxide emissions per CSA B415.1-10 [40 CFR § 60.534(e)] as required in the test methods.

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One Hour PM Emission Rates

The RWH NSPS requires reporting the first hour of PM emissions for each test run. The test methods for space heaters require emissions data to be reported in grams per hour and grams per kilogram. Reviewers identified four issues associated with the first-hour reporting requirement: (1) failure to report any first-hour data, (2) failure to report first-hour data for some of the test runs, (3) failure to report the first-hour values in grams per hour or grams per kilogram, and (4) negative PM emission rates for first-hour values. Of the 129 test reports reviewed, 17 reports (13 percent) contained the following issues with the first-hour reporting requirement:

- 13 test reports were missing first-hour values for some runs.
- 4 test reports contained filter weights rather than required reporting metrics.
- 1 report contained negative values for first-hour emission rates.

Appliances were flagged for revocation criteria based on any of the above identified issues.

Efficiency

All test reports reviewed contained efficiency information. However, 19 test reports did not contain the underlying calculations to show how the efficiency value was derived.

Heat Output

Only 1 of the 129 test reports did not contain heat output information.

Carbon Monoxide Emissions

Carbon monoxide (CO) reporting issues were flagged in 10 (8 percent) of the 129 reports reviewed. The RWH NSPS requires reporting of CO data for each run. Reviewers flagged test reports that did not report individual run CO data as subject to revocation criteria.

Fueling Parameters

40 CFR § 60.534 requires conducting certification tests according to the specifications in the approved test methods. The reviewers evaluated the test reports to determine how the fueling specifications, calculations, and appliance conditioning conformed with test method requirements.

Fuel Length

Standardizing fuel length is critical in replicating test results for research or audit purposes. M28R contains specific language concerning the length of the fuel that can be used for testing. ASTM 3053-17 does not contain fuel length requirements, so ASTM 3053-17 tests were not reviewed under this criterion. M28R specifies that

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ASTM 2780 must be used to guide fueling protocols. Section 9.4.1.6 of ASTM 2780 states that "each test fuel piece ... shall closely approximate 5/6 the dimensions of the firebox length." The method defines firebox length as "the longest horizontal firebox dimension." To determine whether a test complied with this requirement, the review team identified the longest firebox dimension reported, multiplied by 5/6, and subtracted 1 inch. This calculation was then compared to the fuel length used for testing. If the length of the fuel used was less than the calculated value, reviewers determined that the fuel did not meet the requirements of the test method.

Of the 60 reports reviewed that used M28R as their certification test:

- 50 percent (30) did not meet the method requirements for fuel length.
- 35 percent (20) could not be determined because the report did not contain required reporting elements, such as fuel length (10) or firebox dimensions (10).
- 17 percent (10) complied with the method requirements.

This is a required element in the test method, therefore reports that did not conform to this requirement were identified as subject to revocation criteria. Reports that did not contain sufficient information to make this determination were flagged for audit criteria.

Fuel Shape

Fuel shape assessments were only completed for the 69 test reports using ASTM 3053-17, as fuel shape is not relevant for M28R, which uses dimensional lumber. Section 3.2.3 of ASTM 3053-17 defines the acceptable fuel shape as "typically round wood 12 to 24 inches long that has been split into triangular, half-round, quarter-round, wedge-shaped, or trapezoidal segments." Squared wood is not included in that definition. In 2019, EPA reinforced this requirement in several emails sent to EPA-approved testing labs, which are attached as Appendix A.

Of the 69 ASTM 3053-17 reports reviewed:

- 61 percent (42) used squared wood for more than 50 percent of the pieces.
- 25 percent (17) did not provide sufficient data to make a determination about fuel shape.
- 14 percent (10) contained sufficient data to show compliance with fuel shape requirements.

Test reports that did not comply with method requirements were flagged under revocation criteria. Where there was insufficient information for a determination to be made, the report was flagged for audit criteria.

Train Precision

Section 11.7 of ASTM Method 2515 requires the use of two sampling trains, which are the media collection systems used in the testing. The PM results from the sampling trains are used to calculate two indicators of measurement accuracy and precision. The first indicator, train precision, assesses the PM catch measurements between the two trains. ASTM 2515 specifies that train precision cannot exceed 7.5 percent. The second calculation compares the emission factors in grams per kilogram (g/kg) for the two trains and cannot exceed 0.5 g/kg. The RWH NSPS rule requires a certifier to complete all the test method calculations and include those calculations in the test report.

Reviewers found that 43 percent (56) of test reports did not contain train precision calculations. Failure to report these data limits a reviewer's ability to assess the PM measurement quality in the certification testing. Of the 73 reports that did report train precision, 16 percent (12) exceeded the train precision limitations. None of the tests exceeded the g/kg criterion. Reports that did not complete this calculation or exceeded the 7.5 percent precision requirement were flagged for audit criteria.

Conditioning Requirement

Both ASTM 3053-17 and M28R include specific requirements for conditioning ("aging") of the appliance before conducting certification testing. Failure to follow these conditioning requirements calls into question the validity of a certification test. Section 2.1.4 of M28R specifies that the heater must be operated for a minimum of 50 hours using a medium burn rate prior to beginning the test. M28R/ASTM2780 requires reporting of the following elements concerning conditioning:

- Time and weight for all fuel added (ASTM 2780, Section 9.1.4).
- Flue gas temperature at least once per hour during testing (ASTM 2780, Section 9.1.5).
- For catalytic appliances, hourly catalytic combustor exit temperatures (ASTM 2780, Section 9.1.6).

ASTM 3053-17 includes conditioning requirements that are similar to those detailed in M28R. Section 8.1.4 states that the appliance must be run a minimum of 50 hours at the medium combustion air setting using the fuel specified in section 8.4 [of that method] with a moisture content of 18 – 28 percent dry basis. Like M28R, ASTM 3053-17 also requires reporting of specific elements, including:

- Weight and moisture content for all fuel added.
- Flue temperature recorded at least once during each hour of operation.
- For catalytic appliances, recorded hourly catalytic combustor exit temperature.

Both methods also require reporting of additional information to assure that the medium burn rate and fueling parameters are met.

Of the 129 test reports reviewed:

- 34 percent (44) contained no data on conditioning,
- 50 percent (65) did not contain sufficient data to determine compliance with conditioning requirements,
- 12 percent (16) had data that indicated conditioning requirements may not have been met, and
- 4 percent (4) contained sufficient data to confirm compliance with conditioning requirements.

Most of the reports met the requirement for the number of conditioning hours but did not supply data to assess compliance with fueling and burn rate requirements. Appliances that failed to include any conditioning data were flagged for revocation criteria. Appliances with incomplete data were flagged for audit criteria.

4.1.5. Revocation Criteria – Documentation of Low Burn Rate Testing

40 CFR § 60.534(a)(1) states that "the low burn rate category must be no greater than the rate that an operator can achieve in-home use and no greater than advertised by the manufacturer or retailer." Reviewers analyzed air setting data in the test reports to identify low burn rate settings, and found that many test reports do not clearly identify the air settings. Some stoves appear to have been tested as fully completed appliances with multiple air settings, while other tests appear to have been performed on prototype appliances with a fixed air stop setting. The level of detail provided on settings varies significantly from report to report. Some provide specific air setting measurements, some state that the setting was fully opened or fully closed without further details, and others fail to report any air setting data. Some test reports state that the unit was tested at the low load defined by the manufacturer but do not provide data to support that statement.

The paucity of information about this element in the test reports made it difficult to determine if testing was completed in compliance with the rule requirements and if air settings in production units match the air setting configuration used in the prototype during certification testing. None of the test reports contained sufficient information to allow a clear determination of conformance with the requirement. Test report reviews found that:

- 43 percent (55) of test reports provided information that raised questions whether testing at the lowest setting was conducted or failed to provide supporting information to make a determination.

- 21 percent (27) of test reports provided no statements or data to communicate that testing was conducted at the lowest air setting.
- 36 percent (47) of test reports stated that testing was conducted at the lowest air setting but provided no data to support that statement.

Many test reports include an affirmative statement that they tested at the low burn rate. However, they failed to provide detailed information sufficient to assure compliance. Other reports provided information that raised questions, such as measurement information indicating air settings were not closed or not reporting on all settings. Appliances that made an affirmative statement without data were not flagged but reviewers recommend EPA assess these reports for compliance. Appliances with information that raised concerns were flagged as "could not be determined." This flag requires more information for a complete determination. No report raised a revocation flag as not meeting rule requirements.

4.1.6. Audit Criteria – ASTM 3053 Test Reports

Unlike other test methods, ASTM 3053-17 allows manufacturers to supply instructions to EPA-approved laboratories for key elements of the test. The method:

- Allows the manufacturer to define a usable firebox volume without defining criteria for those determinations. In contrast, M28R requires using the actual dimensions of the firebox with allowances to subtract areas not deemed as useable firebox volume. Firebox volume is a critical component in determining the amount of fuel used in certification testing.
- Provides no requirements for fuel length. This allows the manufacturer to modify fuel lengths to achieve appliance performance that may not reflect homeowner operation.
- Allows manufacturers to specify fuel shape and to debark fuel pieces so that they more closely resemble dimensional lumber than cordwood.
- Allows the manufacturer to provide instructions to the EPA-approved testing laboratory that include specifications for fuel dimensions and loading and spacing configurations that more closely resemble crib wood testbeds than the less-structured loading patterns typical in consumer use.
- Lacks parameters to adequately define the medium burn rate.

Some of these elements have been addressed previously in the discussion of revocation criteria. Additional factors that triggered flags for auditing include fuel length, debarked wood, fuel placement, and delineation between medium and low test runs.

Fuel Length

ASTM 3053-17 does not include fuel length requirements. However, EPA's Clean Air Act National Stack Testing Guidance[32] informs certification testing. Section VII(5) of EPA's guidance recommends testing with expected in-use fuel conditions "that would present the greatest challenge in meeting applicable emissions standards." Furthermore, the guidance states:

- In light of the fact that: (a) **the Act requires that facilities continuously comply with emission limits** [emphasis added]; (b) the NSPS, MACT, and NESHAP programs all require that performance tests be conducted under such conditions as the Administrator specifies; and the NSPS and MACT programs further require that such tests be conducted under representative operating conditions; EPA recommends that performance tests be performed under those representative (normal) conditions that:

  - represent the range of combined process and control measure conditions under which the facility expects to operate (regardless of the frequency of the conditions); and
  - are likely to most challenge the emissions control measures of the facility with regard to meeting the applicable emission standards, but without creating an unsafe condition.

40 CFR § 60.536 also requires that marketing materials and specifically the owner's manual contain information that must be adequate to enable consumers to achieve optimal emissions performance. Based on emission testing conducted by NESCAUM, the use of longer fuel lengths does not improve emissions performance. Therefore the recommendations to use wood in certification testing shorter than detailed in the owner's manual appear to contradict this requirement. Of the 69 tests reviewed using ASTM 3053-17, 84 percent (58) used fuel that was shorter than the maximum fuel length recommended by the manufacturer in the owner's manual or other related marketing materials, and only 8 tests used the same length recommended as a maximum.

As a guide, reviewers also analyzed how many appliances complied with the 5/6 fuel length rule contained in M28R. Using the M28R calculation, the reviewers found that 58 percent (40) of the ASTM 3051-17 tests would not meet the M28R fuel length criterion, and 22 percent (15) did not have sufficient data to make a determination. Reports that did not include fuel length data or used wood deemed too short using the M28R calculation were flagged for audit criteria. Only two cordwood stoves were tested

[32] US EPA. *Clean Air Act National Stack Testing Guidance*. US EPA Office of Enforcement and Compliance Assistance (2009).

with fuel that met the 5/6 guideline and was not shorter than recommended by the manufacturer.

Debarked Wood

Of the 69 ASTM 3053-17 tests reviewed, 90 percent (62) used debarked wood or failed to provide information about whether there was bark on the fuel. This indicates that using debarked wood in the tests is a common practice, but it is not representative of most homeowner fuel use. Reports that did not include pictures sufficient to determine fuel characteristics or used debarked fuel were flagged for audit criteria.

Fuel Placement

Reviewers assessed fuel placement by determining the firebox's longest dimension to apply a typical loading pattern for the stove. If the appliance's longest dimension was its width, the appliance was deemed an east/west stove. If the longest dimension was its depth, it was considered to be a north/south stove. Reviewers then assessed the fuel configuration pictures that must be included in the test reports per ASTM 3053-17 sections 8.5.9.3 and 8.6.9.1. Of the 69 ASTM 3053-17 tests reviewed:

- 51 percent (35) did not load fuel in the configuration typical of homeowner use (e.g., an east/west stove that was fueled north/south or crisscross),
- 6 percent (4) used the expected homeowner configuration, and
- 43 percent (30) did not provide data on fuel placement and did not provide pictures sufficient to determine loading direction.

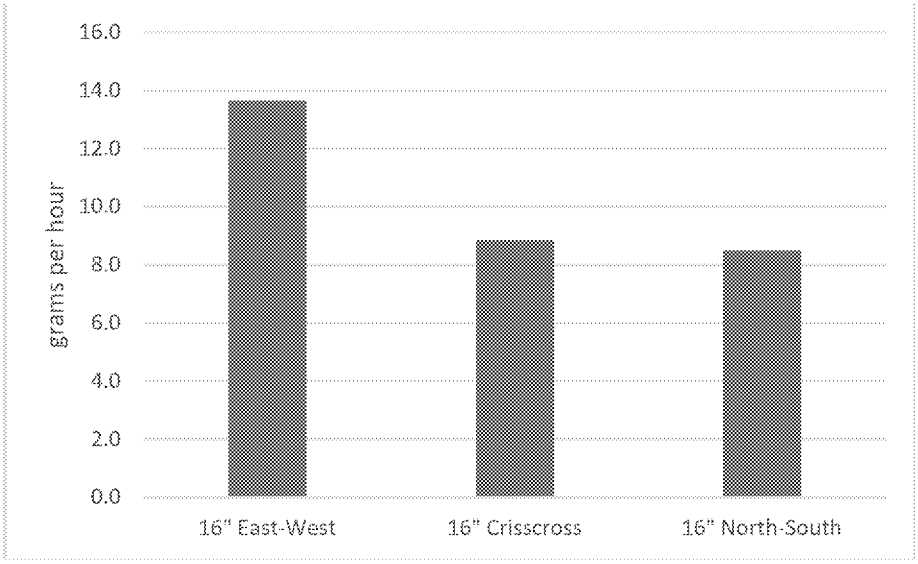
Reports that did not include pictures sufficient to determine fuel loading patterns or used patterns that were not deemed appropriate were flagged for audit criteria.

As part of NESCAUM's test method research, emission testing was completed on a medium-sized, non-catalytic, east/west stove. Testing evaluated the emission impact of the three different fuel configurations found in certification test reports, as shown in Figure 9. For an east/west stove, an east/west fuel configuration would be most representative of in-home use.

Figure 9. Three Common Fuel Loading Configurations for Cordwood Stoves

As shown in Figure 10, using the less representative north/south and crisscross configurations in the east/west stove resulted in lower emissions.

Figure 10. Emission Impact of Fuel Piece Configuration

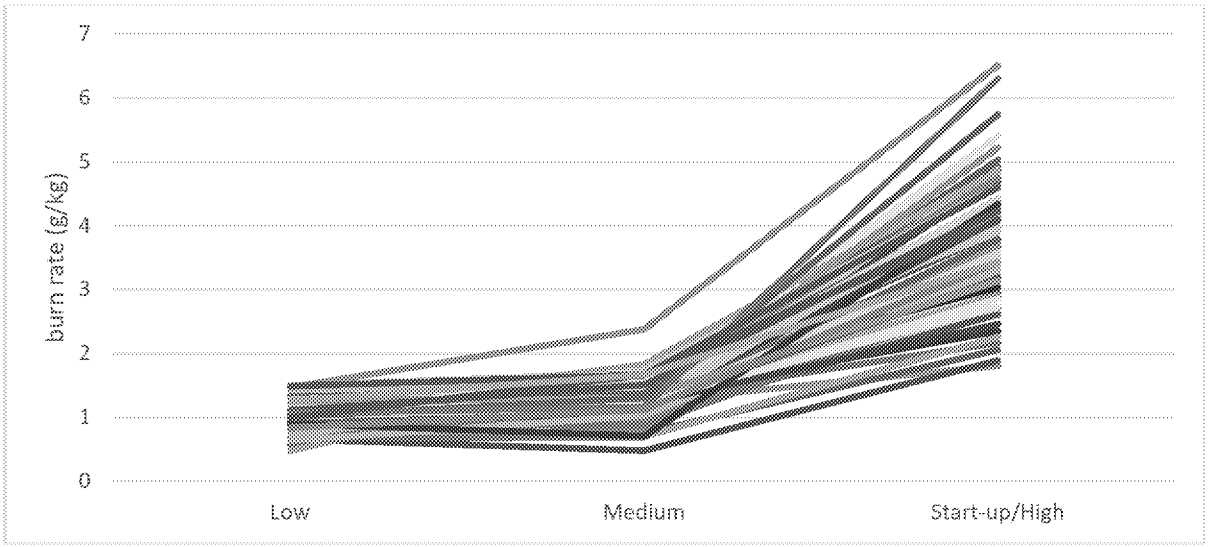


Delineation Between Low and Medium Runs

ASTM 3053-17 does not include specifications for medium burn rate runs. Instead, it only requires that the appliance be tested at an air setting higher than the one used for the low setting. This is important because the medium and low test runs represent 80 percent of the weighting in calculating the certification value. Because the emission standard metric is in terms of emissions over time (g/hr), practices that extend burn times reduce the emission rate measured in the certification test when recognizing the largest amount of PM emissions occur at the start of the test. Analysis of the 69 ASTM 3053-17 tests found that almost two-thirds (46) of the medium air setting's burn rates were within 0.3 kg/hr of the burn rate for the low burn. This gap is 50 percent less than the typical

range EPA provides within M28R for a single burn rate. For example, the range of allowable burn rates in Method 28R for Category 2 is 0.80 to 1.24 kg/hr. Figure 11 shows the burn rates for the low, medium, and high burns in all the ASTM 3053-17 tests. Clearly, the burn rates in the medium burn runs are skewed closer to the low burn rates and are not representative of mid-point testing. In several instances, the medium-fire phase's burn rate was lower than that in the low-fire phase. In some cases, test reports used the same setting, fully closed, for both the low and medium burn, in violation of test method requirements.

Figure 11. ASTM 3053-17 Comparison of Low, Medium, & High Burn Rates



Other Issues Identified with ASTM 3053

In addition to the issues listed above, reviewers identified other irregularities in ASTM 3053-17 test reports, including:

- Review of testing times indicates that ASTM 3053-17 test runs are significantly longer than M28R on similar stoves. Fuel species, fuel loading volumes, and fuel placement parameters can extend testing times, leading to test runs that last two to three times longer than similar M28R runs. NESCAUM research found that 30-50 percent of the testing time was spent burning the last 10 percent of the fuel load, known as the charcoal tail. During this time, no PM emissions occurred. Larger fuel loads further extend the time of the charcoal tail. Extending the burn-times, along with the less stringent emission standard for cordwood testing in the RWH NSPS, may allow manufacturers to meet the emission standard, in g/hr, without optimizing the design of their appliances.
- Reviewers noted that the stoves' average temperature was significantly higher in the low and medium runs of the ASTM 3053-17 tests than in similar appliances

tested using M28R procedures.

- Reviewers noted that some tests reported different species for different burns. Specifically, fuels with lower densities were used for the start-up/high runs, and higher density fuels were used for low and medium runs. Some reports also reported that the test "mainly used X species," indicating that multiple species were used but not reported. Of the 69 appliances that tested with ASTM 3053-17, 13 percent used a mixture of fuel species, and 6 percent failed to report which fuel species was used in testing
- The method states that the emission rate from only one start-up/high fire run is used in the calculation of the certification value, although a start-up/high fire burn precedes both the low and medium burns. Some test reports used the start-up/high fire emission testing from the first day of testing, some used the second day, some averaged emissions of multiple start-up/high fire runs, while others measured emissions on an additional day of testing. Some test reports reported emission measurements for all runs, some claimed to have only obtained measurements for one of the start-up high fire runs, but report data suggested additional data might have been gathered.

Cumulative Analysis of ASTM 3053-17 Deficiencies

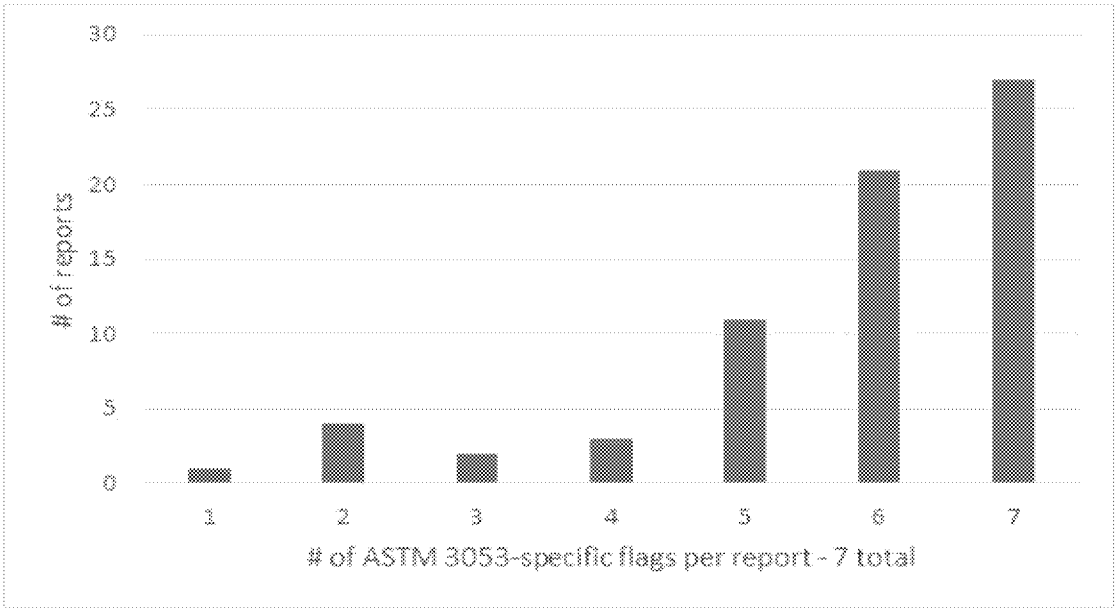
As discussed above, reviewers noted that ASTM 3053-17 tests often included several operational and fueling deficiencies. To assess the cumulative impact of the lack of specificity in the ASTM 3053-17 procedures, reports were reviewed to identify the following seven deficiencies:

1. Wood used was shorter than 5/6 of the longest dimension.
2. Certification testing used shorter wood than the maximum recommended by the manufacturer in the owner's manual or marketing materials.
3. Fuel placement was atypical.
4. Firebox dimensions listed in the test report did not match manufacturer materials.
5. Medium burn rates were within 0.3 kg/hr of low burn rates.
6. Fuel was squared.
7. Fuel was debarked.

As highlighted in Figure 12, all of the ASTM 3053-17 tests had at least one deficiency, and one-third had all seven. Of the 69 ASTM 3053-17 test reports reviewed:

- 96 percent (64) had three or more deficiencies
- 87 percent (59) had five or more deficiencies

Figure 12. Number of ASTM 3053 Deficiencies per Test Report



The incorporation of multiple factors that tend to reduce emissions and that are atypical of in-use stove operation raises questions about the efficacy of the ASTM 3053-17 protocol in assuring compliance with NSPS standards.

We note that beginning in June 2019, US EPA's OAQPS Measurement Technology Group (OAQPS-MTG)[33] sent several emails to ISO-accredited and EPA-approved labs and third-party certifiers raising many of these ASTM 3053 testing issues (*see* Appendix A). In the initial email sent June 13, 2019, OAQPS-MTG stated that it had reviewed certification test reports and identified "discrepancies and concerns" related to testing. These issues included:

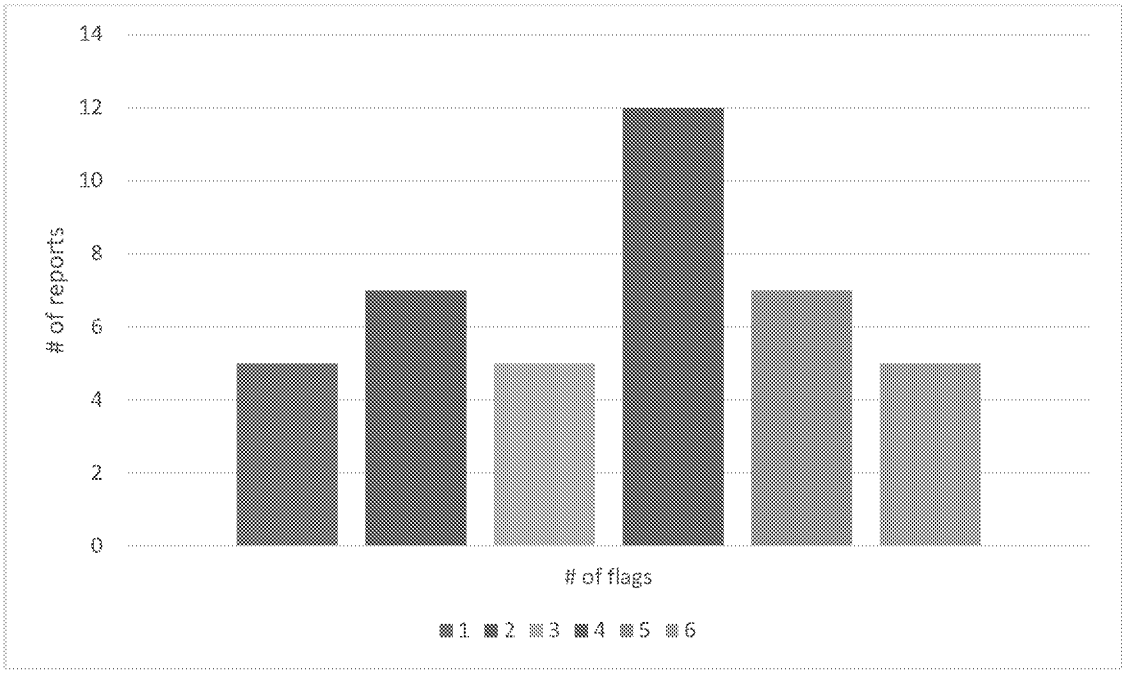
- Lack of reporting on the fuel species used for testing.
- Removing bark from fuel pieces prior to testing.
- Shaping or extreme sorting to constitute preference for a particular shape of fuel or fuel load.
- Loading and lighting of fuel inconsistent with instructions in the appliance owner's manual.
- Using complicated fuel placement instructions that did not reflect homeowner use.
- Manipulating the ash bed.

[33] OAQPS-MTG leads emissions testing requirements. However, a different EPA office handles report certifications. Certification of appliances is the responsibility of EPA's Office of Compliance housed within OECA.

- Failing to meet method-required fuel loading specifications by including shortened fuel pieces, partial loading, or not using the full firebox area to calculate fuel loading.
- Limiting fuel loading during compliance testing.
- Using instructions that expressly override specified sections of the test method or the subpart rule language (inside or outside of the test method requirements).

OAQPS-MTG indicated that manufacturers would need to revise and resubmit corrected compliance test reports where these issues exist. To assess responses, the reviewers for this study looked for updated and revised test reports after the EPA emails were sent, but were unable to locate any. Adding to the difficulty of trying to review subsequently modified test reports is that the EPA OECA Office of Compliance has not issued guidance to require revision tracking of certification reports. Reviewers did identify 40 test reports that the OECA Office of Compliance certified after the OAQPS-MTG June 2019 email, and evaluated those to see if they conformed to the identified issues. Reviewers assessed eight elements, which were all the items in the above bulleted list except the ash bed element, as this proved challenging to review. As shown in Figure 13, all of the 40 reports certified after the 2019 June email contained at least one of the problematic activities that OAQPS-MTG had identified as raising concerns. The number of issues flagged ranged from 1 to 6, with each report having 3.5 flags on average.

Figure 13. Certification Reports that Continued to Include Questionable Activities after June 2019 EPA OAQPS-MTG Email (40 total reports)



4.1.7. Summary of Cordwood Stove Certification Test Reports

Of the 129 test reports reviewed, all contained flags for revocation and audits. On average, each certification test report contained nine missing elements, nine revocation flags, and seven audit flags (Table 4). The findings indicate that issues with cordwood stove certification testing and test reports are widespread and not identified by either ISO third-party reviewers or by EPA OECA.

Table 4. Summary of Cordwood Stove Test Report Reviews Deficiencies

	Missing Report Elements (36 total)	Revocation Criteria Flags (17 total)	Audit Criteria Flags (20 total)
Low	2	3	2
Average	11	8	8
High	24	12	15

4.2. Pellet Stoves

Reviewers identified 96 pellet stoves to review as part of this research. Unlike cordwood stoves, pellet stove emissions are reduced by optimizing combustion of the fuel rather than secondary controls like catalytic or secondary combustion approaches. ASTM 2779 is the only pellet stove test method approved for use under the RWH NSPS. ASTM 2779 is a single test run that allows the appliance to start-up and operate for one hour before starting emission testing. Once emission testing begins, the pellet stove must spend one hour at the maximum setting, two hours at a medium setting, and three hours at the lowest burn rate.

4.2.1. Complete Test Reports

The RWH NSPS requires manufacturers to submit "[a]ll documentation pertaining to a valid certification test, including the complete test report and, for all test runs: Raw data sheets, laboratory technician notes, calculations, and test results" as part of the application for a certificate of compliance with that standard [40 CFR § 60.533(b)(5)]. Within 30 days of receiving certification, "the manufacturer must make the full non-CBI test report and the summary of the test report available to the public on the manufacturer's Web site" [40 CFR § 60.537(g)].

The reviewers assessed report completeness by determining whether the review criteria listed in Table 5 were included in the publicly available test reports. Based on that assessment, each report was assigned to one of the following five categories:

- *Complete:* All non-CBI elements were included in the report.
- *Incomplete-Minor:* One to three elements were missing from the test report.

- *Incomplete-Major:* Four to ten elements were missing from the test report.
- *Incomplete-Seriously Deficient:* More than ten elements were missing from the test report.
- *Missing:* Test report could not be found by searching the manufacturer's website and by conducting additional searches.

None of the publicly available pellet stove certification test reports reviewed were complete. The level of report completeness varied significantly. Of the 96 Step 2 pellet stove certifications identified, 10 percent (10) did not have a publicly available test report, and 15 percent (13) contained less than 20 pages with a deficient amount of data. Table 5 highlights findings from the report completeness review.

Table 5. Assessment of Pellet Stove Report Completeness

Report Element		Reported	Not Reported
Raw data sheets	Data for all test runs	41	55
	Manu. instructions	67	29
	Appliance setting	77	19
	Fuel characteristics[34]	50	46
	Filter data	61	35
Calculations	Efficiency	67	29
	Burn rate	66	30
	Train precision	39	57
Lab technician notes		66	30
Average heat output		80	16
Heat output range		80	16
Discussion of appropriateness & validity		39	57
Discussion of anomalies		41	55
Discussion of unused data		41	55
Conditioning		52	44
Test location		43	53
Third-party certifier		26	70
30-day notice to EPA		15	81
60-day report to EPA		35	61

More than half of the 86 available test reports did not include the following required elements:

- Sufficient documentation on appliance conditioning to determine compliance with the test method.

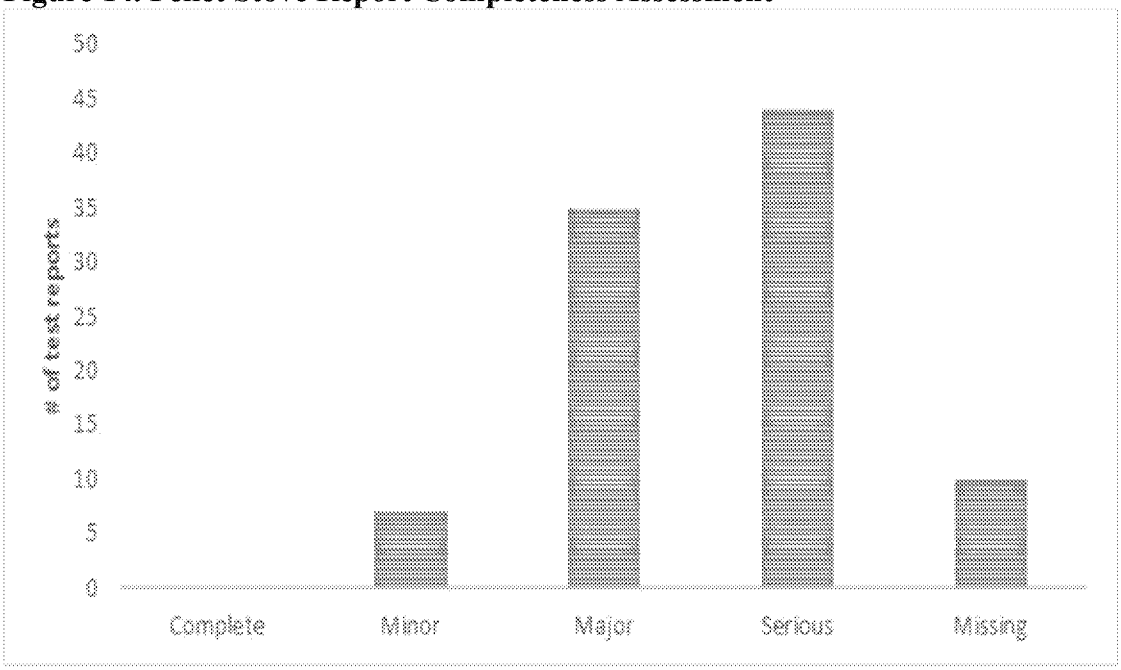
[34] This element addresses fuel length and for ASTM 3053 fuel piece characteristics.

- Identification of the company that provided a third-party review of the report and the report from the third-party certifier.
- Complete information on appliance settings for the test.
- Dual-train precision information.
- Pellet analysis.
- Testing location.

Approximately one-quarter of the test reports did not include raw data sheets, technician notes, filter data, burn rate, or the manufacturer's instructions to the lab.

The overall completeness findings, based on publicly available reports, are presented in Figure 14. The review found 10 test appliances with missing reports, 7 appliance reports with minor deficiencies, 35 reports with major deficiencies, and 44 reports with serious deficiencies. Appliances without publicly posted test reports were flagged as subject to revocation criteria.

Figure 14. Pellet Stove Report Completeness Assessment



The review of pellet stove certification test reports found many of the same issues identified with the cordwood stove reports. Some of the omitted elements from the publicly available test reports may have been included in the certification applications submitted to OECA. However, without access to those elements, states and other parties that rely on EPA's certification process cannot conduct a full review of test results.

4.2.2. Revocation Criteria – Testing Irregularities

This section details testing irregularities identified during the report review process. Testing irregularities is a criterion for revocation under 40 CFR § 60.533(l)(ii).

Negative Filter Values

Only 61 of the 86 publicly available reports contained data on filter weights. Of the 61 reports with filter data, 46 percent (28) reported negative filter weights, a percentage similar to the cordwood stoves. As discussed in more detail in Section 4.1.2, ASTM 2515 requires that the filters be weighed before and after testing. Negative filter weights are recorded when the filters weigh less after the test than before the test. Of the 28 test reports with negative filter weights, four indicated the use of recovery methods to ensure all particulate mass was captured for measurement purposes. As noted with the cordwood stoves, EPA has not developed guidance on proper procedures for handling negative filter values despite the high number appearing in test reports. Certification test reports with this flag were listed under revocation criteria.

4.2.3. Revocation Criteria – Compliance with § 60.536 Requirements

Another revocation criterion specified in the 2015 RWH NSPS is a finding that "the labeling of the wood heater model line, the owner's manual or the associated marketing material does not comply with the requirements detailed in 40 CFR 60.536" [40 CFR § 60.533(l)(ii)]. 40 CFR § 60.536(g)(1) states that information in the owner's manual and associated material "must be consistent with the operating instructions provided by the manufacturer to the approved test laboratory for operating the wood heater during certification testing, except details that would not be relevant to the user." To assess conformance with these requirements, reviewers compared the appliance's heat output and efficiency ratings specified in the test report with the manufacturer's information. The public information reviewed included owner's manuals, product brochures, and websites because "associated marketing materials" are included in this requirement.

Appliance Parameters – Heat Output

Heat output is an important metric because the pellet stove test method specifies that the test's high heat segment must be conducted at the maximum heat output the appliance can achieve. Reviewers compared the heat output recorded in the high-fire portion of the ASTM 2779 test with the heat output data found in the manufacturer's materials. (This is not the same as the average heat report element of Table 5.) If the heat output in the manufacturer's materials was ten percent more than the maximum output reported during the high-fire phase of the test, a revocation flag was generated. A flag for this item raises questions about the certification test's adequacy and representativeness.

The comparison of the maximum heat output in the certification test reports with that listed in the manufacturers' materials found that:

- 73 percent (63) of the appliances reported higher heat output values in their marketing materials than achieved during certification testing.
- 9 percent (8) did not report maximum heat output ratings in their marketing materials.
- 17 percent (15) had maximum heat output data that matched their test reports.

The results of this metric were similar to the findings from cordwood stoves.

Appliance Parameters – Efficiency

Reviewers compared the efficiency reported in 86 certification test reports with the efficiency data obtained from the manufacturers' marketing materials. The review found:

- 37 percent (32) of the appliances had conflicting data.
- 34 percent (29) did not report efficiency information in their marketing materials.
- 29 percent (25) had data that matched.

Appliances were flagged for revocation criteria if the manufacturer's materials' efficiency ratings deviated from the average efficiency ratings reported in the test report.

4.2.4. Revocation Criteria – Failure to Follow Test Methods

Failure to follow the test methods specified in 40 CFR § 60.534 is a criterion for revocation under 40 CFR § 60.533(l)(vii). Several elements were evaluated to determine whether certification tests were performed according to the specified methods, as discussed below.

Required Reporting Elements

Reviewers examined the test reports to determine whether they included PM emissions measured in the first hour of the test [40 CFR § 60.534(d)], as well as the efficiency, heat output, and carbon monoxide emissions per CSA B415.1-10 [40 CFR § 60.534(e)] as required in the test methods.

1-hr PM Emission Rates

Of the 86 test report reports reviewed, 15 percent (12) did not fully report first-hour PM emissions. In six of those reports, no first-hour PM emissions were reported. In the other six test reports, additional test runs were completed that were missing the first-hour emissions parameter. Appliances that did not measure or report first-hour PM data were

flagged as subject to revocation criteria. Unlike the cordwood stove reports, no pellet stove reports included negative first-hour PM measurements or only filter weights.

Carbon Monoxide (CO) Emission Rates

Of the 86 reports reviewed, 9 percent (8) did not report CO measurements. Of the 78 reports that included CO emissions data, 17 percent (13) stated the CO emissions were zero for the entire test or a portion of the test run. Given the nature of combustion, zero CO emissions are unlikely, and the reports of zero CO raised concerns about measurement accuracy for this pollutant. Appliances that did not measure or report CO emissions or reported a zero-emission rate were flagged as subject to revocation criteria.

Efficiency

All reports contained efficiency data. This reporting element had 100 percent compliance. However, 19 reports failed to provide the underlying calculations to support the reported data.

Average Heat Output and Heat Output Range

Of the 86 reports, 5 did not include average heat output. Six reports did not contain the range of heat outputs. However, all the reports contained either average heat output or the range of heat outputs.

Data from Additional Test Runs

40 CFR § 60.533(b)(5) states that test reports must include any data not used in the calculations and, for any test run not completed, the data collected during the test run and the reason(s) why the test run was not completed. Of the 86 reports, 16 percent (14) reported completing additional test runs. For the 14 tests that completed additional runs, 43 percent (6) had partial data from those test runs but not complete data, and 57 percent (8) did not include any data from the extra test runs. The reviewers flagged under the revocation criteria all certification test reports that did not include complete data from the additional test runs.

Medium Burn Rates

ASTM 2779 section 9.4.1.2 requires that the medium burn rate cannot exceed 50 percent of the high burn rate. Reviewers found that:

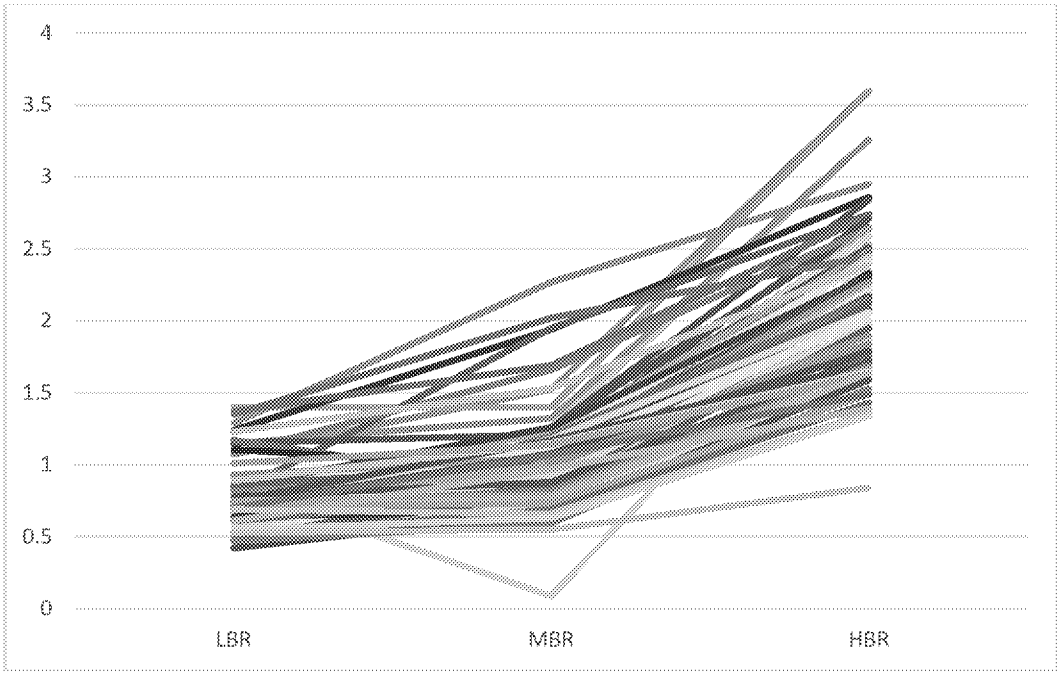
- 29.5 percent (26) appliances did not meet this test method requirement.
- 67 percent (57) appliances met the medium burn rate requirement.
- 3.5 percent (3) appliances did not provide data needed to determine compliance.

Appliances that did not meet the medium burn rate requirement were flagged for revocation criteria unless an ATM had been approved by EPA, which was the case for

one appliance.

Figure 15 provides an overview of the burn rates for pellet stoves. This figure shows a more linear relationship between low, medium, and high burn rates than those observed for cordwood stoves using ASTM 3053-17.

Figure 15. Low, Medium, High Burn Rates for Step 2 Pellet Stoves



Certification Test Report Review: Conditioning

Section 9.1 of ASTM 2779 requires conditioning of appliances prior to conducting certification testing by operating the appliance for 48 hours at a medium burn rate. Reviewers found in the 86 test reports that:

- 5 percent (4) completed and reported conditioning correctly.
- 41 percent (35) failed to report any conditioning data.
- 43 percent (37) provided data that was insufficient to determine if test method requirements were met.
- 12 percent (10) provided data that indicated conditioning did not meet test method requirements.

Of the 10 reports that contained conditioning data not meeting test method requirements, 5 did not show conformance with medium burn rate requirements and 5 indicated only 10 hours of conditioning occurred. Another 12 reports contained data in the report summary indicating only 10 hours of conditioning had been completed. However,

conditioning data was not supplied to confirm those statements. Appliances that did not report or comply with conditioning requirements were flagged for revocation criteria.

While the test method for cordwood stove provides a provision for manufacturers to conduct conditioning, ASTM 2779 provides no such provision, nor could reviewers identify a provision allowing manufacturers to condition pellet stoves before conducting certification testing. Of the 86 reports reviewed, 33 reports stated that the lab completed the conditioning, 17 noted the manufacturer conducted the conditioning, and 36 provided no information on where the appliances were conditioned. Labs are required to report all data obtained from the appliance, so the lack of conditioning data or reporting of who conducted the conditioning suggests that it was done by the manufacturer. Reviewers noted that of the 17 appliances where the manufacturer conducted the conditioning, 7 were completed after the lab indicated it received the appliance.

Multi-Fuel Units

Section 9.4.9 of ASTM 2779 states, "[w]hen alternative fuels are recommended by the manufacturer for use in the pellet heater in the manufacturer's written instructions, conduct a full integrated test run for each of the recommended alternative fuels[.]" Reviewers found that approximately 20 percent of the pellet stoves allow or advertise the use of their appliance with fuels other than wood, such as corn, cherry pits, wheat, rye, and distillers grain. However, certification test reports do not contain testing for those alternative fuels. This deficiency raises concerns about appliance performance when alternative fuels are combusted. Multi-fuel units that did not conduct testing with all the fuels specified in the owner's manual or associated marketing materials were flagged under revocation criteria.

Fueling Parameters

Section 9.3 of ASTM 2779 details requirements for the fuel used in testing. This section includes requirements for analysis of the pellets. According to the test method, all test reports must include the results of an analysis of the higher heating value (HHV) and moisture content of the fuel using specified methods. Units that determine heat output and efficiency using the procedures in section 9.5.1 and Annex 1 of that method must also include ash and ultimate analysis (carbon, hydrogen, nitrogen, and oxygen content) using specified methods. Of the 86 reports reviewed, 49 percent (42) did not include these data. Reviewers also noted that 42 percent (36) did not report the brand or fuel type (softwood, hardwood, mix) of pellet used. Units that did not report the type of pellets used or include analysis of the pellets used in testing were flagged under revocation criteria.

Train Precision

Section 11.7 of ASTM Method 2515 requires the EPA-approved lab to complete two calculations to determine if the precision of the two trains used for PM measurement is sufficient: (1) dual-train precision, which is a comparison of the PM catch in the two trains, cannot exceed 7.5 percent, and (2) the difference in the g/kg measurements for each train cannot exceed 0.5 g/kg. The RWH NSPS requires test reports to include all calculations required by the test method. Additional information on this topic can be found in Section 4.1.4.

The review of pellet stove certification test reports found that 55 percent (47) of the test reports did not include train precision calculations. Failure to report these data limits the reviewer's ability to assess the PM measurement quality. Of the 39 reports that contained train precision information, 15 percent (6) had values that exceeded 7.5 percent. None of the reports violated the g/kg requirement. Units that did not report this calculation or exceeded the 7.5 percent precision requirement were flagged under audit criteria.

4.2.5. Revocation Criteria – Low Burn Rate Testing

40 CFR § 60.534(a)(1) states "the low burn rate category must be no greater than the rate that an operator can achieve in-home use and no greater than advertised by the manufacturer or retailer." Reviewers identified reports where the data indicated the lowest air setting had not been used for the low-fire phase. Many other test reports failed to include data for all air control settings. In these instances, reviewers indicated that compliance with the requirement could not be determined. Reviewers found that:

- 14 percent (12) did not meet the low burn rate requirement.
- 3 percent (3) met the low burn rate requirement.
- 81 percent (70) did not have enough information to determine if the requirement was met.

Test reports where data indicated that testing did not occur at the lowest possible setting or where insufficient data existed to make a determination were flagged under revocation criteria.

4.2.6. Summary of Pellet Stove Certification Test Reports

Of the 86 test reports reviewed, all had at least one element that triggered revocation criteria. As shown in Table 6, on average, each report contained seven revocation criteria flags and five audit criteria flags, and had eleven missing elements. The findings indicate that issues with pellet stove certification testing and test reports are widespread and not identified by either ISO third-party reviewers or by EPA OECA.

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Table 6. Summary of Pellet Stove Test Report Reviews Deficiencies

	Missing Report Elements (33 total)	Revocation Criteria Flags (15 total)	Audit Criteria Flags (15 total)
Low	2	3	1
Average	11	7	5
High	29	14	11

4.3. Central Heaters

Wood-fired residential central heating appliances are regulated under Subpart QQQQ of the Part 60 NSPS regulations. While regulated under a different subpart, the requirements for wood-fired central heaters are similar to those used for room heaters. Like room heaters, central heating appliances must be tested using valid certification test procedures, as defined in 40 CFR § 60.5473. That subpart includes the following certification test requirements:

- The Administrator must be notified about the test in accordance with the specifications in 40 CFR § 60.5476(h).
- The test must be conducted by an EPA-approved test laboratory.
- The test must be conducted on a central heater similar to the production model in all material respects that would affect emissions.
- The test must be conducted in accordance with the test methods and procedures specified in 40 CFR § 60.5476.

The team assessed 28 central heaters; 15 cordwood hydronic heaters, 8 pellet boilers, 1 chip boiler, and 3 cordwood furnaces. Certification tests of 9 of the cordwood hydronic heaters, 6 of the pellet boilers, and the chip boiler used ASTM 2618 procedures. Five hydronic heaters were tested according to the EPA M28WHH PTS method. Certification testing of 3 furnaces and 2 pellet boilers used alternative test methods (ATMs). A report could not be found for one cordwood hydronic heater.

4.3.1. Test Report Completeness

Test reports for central heaters were harder to locate on the manufacturers' websites than the stove reports. For 50 percent of the appliances, locating the test reports required contacting EPA. Some manufacturers posted reports at URLs that could not be found by navigating their website or using search engines. This raises questions about the need for a more specific definition of "publicly available."

Reviewers used the list of requirements in the rule as given below to assess the completeness of the posted test reports.

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- 40 CFR § 60.5476 discusses general requirements for certification. It states that the manufacturer must "submit a summary and a full test report with all supporting information, including detailed discussion of all anomalies, whether the burn rate categories were properly achieved, and any data not used in the calculations and, for any test runs not completed, the data collected and the reason that the test run was not completed."
- 40 CFR § 60.5475(b)(5) details specific requirements for certification application packages, "including the complete test report and, for all test runs: Raw data sheets, laboratory technician notes, calculations and test results. Documentation must include the items specified in the applicable test methods. Documentation must include discussion of each test run and its appropriateness and validity, and must include detailed discussion of all anomalies, whether all burn rate categories were achieved, any data not used in the calculations and, for any test runs not completed, the data collected during the test run and the reason(s) that the test run was not completed. The documentation must show that the burn rate for the low burn rate category is no greater than the rate that an operator can achieve in home use and no greater than is advertised by the manufacturer or retailer. The test report must include a summary table that clearly presents the individual and overall emission rates, efficiencies and heat outputs."
- 40 CFR § 60.5475(b)(5) specifies that all emission data, including all information necessary to determine emission rates in the format of the standard, cannot be claimed as CBI.
- 40 CFR § 60.5475(b)(12) requires manufacturers to place a copy of the complete certification test report and summary on the manufacturer's website that is available to the public within 30 days of issuing a certificate of compliance.

The RWH NSPS does not specify all the complete test report elements and the summary that must be publicly posted. However, states and other parties that rely on EPA's certification process must have access to all underlying data to conduct a full review of test results.

The level of completeness in the reports varied considerably. None of the certification test reports were complete, and one appliance did not comply with the public posting requirement. Of the 27 reports reviewed, 48 percent (13) were less than 20 pages in length with a deficient amount of data. However, even test reports that had greater information were missing key elements. Table 7 highlights the findings of the completeness determination, and includes the one device with a missing report.

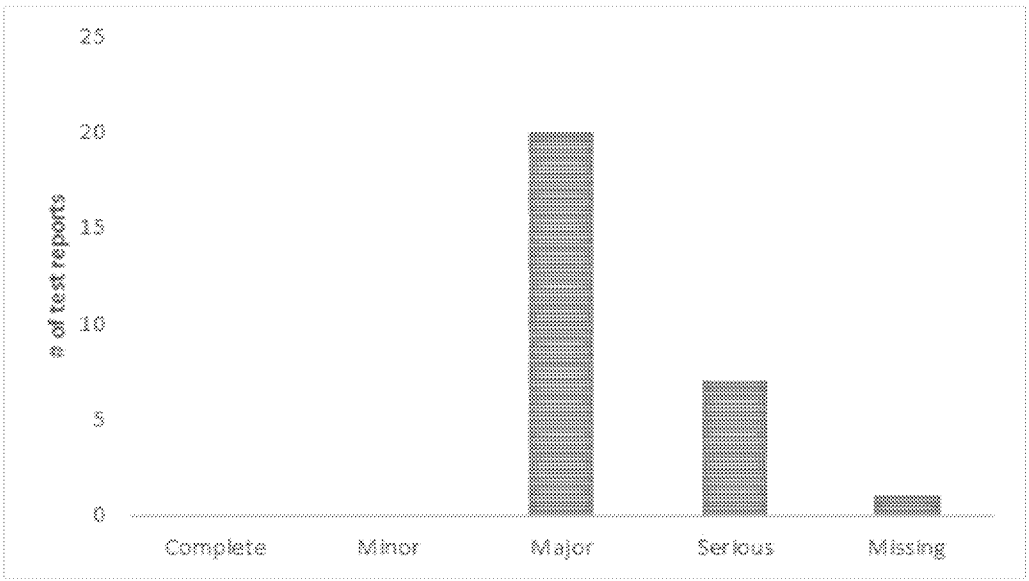
Table 7. Assessment of Report Completeness – Central Heaters

Element	Reported	Not Reported
Instructions to lab on appliance operation	5	23
Raw data	12	16
Lab notes	15	13
Filter data	19	9
Train precision	2	26
Appliance setting	0	28
Burn rate	9	19
Fuel information	9	19
Heat output	27	1
Conditioning	10	18
Photo documentation	7	21

Reports were assigned to one of the following categories based on the report assessments:

- *Complete:* All non-CBI elements were included in the report.
- *Incomplete-Minor:* One to three elements were missing from the test report.
- *Incomplete-Major:* Four to ten elements were missing from the test report.
- *Incomplete-Seriously Deficient:* More than ten elements were missing from the test report.
- *Missing:* Test report could not be found by searching the manufacturer's website and by conducting additional web searches.

Figure 16. Assessment of Central Heating Report Completeness



None of the 27 reports reviewed contained all the data necessary for a complete review. Twenty had three to ten missing elements, seven were missing more than ten elements, and one report could not be located. The appliance for which a report could not be found was flagged under revocation criteria.

4.3.2. Revocation Criteria – Testing Irregularities

The RWH NSPS states that certification for a central heater can be revoked "based on problems or irregularities with the certification test or its documentation" [40 CFR § 60.5475(l)(ii)]. To evaluate testing irregularities, reviewers focused on the handling of negative filter weights. This issue has been discussed in previous sections of this report.

Of the 27 central heating reports reviewed, there was not enough information in 13 test reports to assess this element. Of the 14 certification test reports that included this information, 86 percent (12) reported negative filter weight values. Based on the review, none of the 12 tests that reported negative filter values used recovery procedures to assure that all PM mass had been captured in the weighing process. Further, the negative filter values were not reported in any of the test's summary descriptions in the report.

4.3.3. Compliance with § 60.5478 Requirements

Section § 60.5475(l)(1)(iii) states that a certification can be revoked if EPA determines that "the labeling of the central heater model line, the owner's manual or the associated marketing material does not comply with the requirements of 60.5478." Section 60.5478(f)(1) states that "such information must be consistent with the operating instructions provided by the manufacturer to the approved test laboratory for operating the wood heater during certification testing, except details that would not be relevant to the user." Test reports were assessed to determine whether the laboratory's operational parameters and instructions in the test reports were consistent with those in the manufacturer's materials.

Central Heating Operational Parameters

Unlike the room heaters, reviewers found only limited contradictions between the manufacturer's materials and the testing data. Examples of discrepancies identified included identifying CO emission data as PM results and the reporting of lower heating value (LHV) data without calculating HHV efficiency.

Comparison of Instructions to Laboratories versus Owner's Manual Instructions

Only 5 of the 27 test reports reviewed included the instructions that manufacturers gave to the certification testing laboratory, so it was not possible to make this comparison.

4.3.4. Revocation Criteria – Test Methods

The certification revocation criteria listed in 40 CFR § 60.5475(l)(vii) include the failure of the EPA-approved laboratory to test the central heater using the methods specified in 40 CFR § 60.5476. This section requires that certification tests follow the requirements detailed in the approved methods and specifies that test results must report particulate matter emissions for the test's first hour. Reviewers assessed the reports to determine whether the testing conducted was consistent with the test method requirements

Mandatory Reporting Elements

The rule requires the reporting of first-hour PM emissions, CO, and efficiency. The central heating test methods require reporting of efficiency, heat output, and CO emissions per CSA B415.1-10 [40 CFR § 60.534(e)]. For units testing with ASTM 2618-13, delivered efficiency must also be reported. The reviewers assessed whether those mandatory elements were included in the report's summary data, as discussed below.

First-hour PM Emission Rates

Of the 27 central heating certification test reports reviewed, 8 reports did not contain first-hour PM data. Of the remaining 19 reports, nearly one-third (6) reported negative, first-hour PM emission rates. A negative PM emission rate for the first hour of a test suggests that there were issues with the test. A review of the data found that first-hour values for central heating tests were substantially lower than those for room heating appliances. This finding seems counter-intuitive, as central heating appliances tend to burn more fuel during the initial high-load periods. Additional review of central heating testing should be considered to determine if certification testing follows appropriate protocols for measuring this metric. Appliances that did not report first-hour values or reported negative first-hour values were flagged under revocation criteria.

Appliance Conditioning

ASTM 2618 requires conditioning of appliances at a medium heat draw for 48 hours prior to conducting certification testing (Section 11). However, the method does not define "heat draw" or "medium heat draw." NESCAUM contacted EPA for guidance on this issue and was advised to develop a range somewhere between the lower limit of Category II and the upper limit of Category III testing ranges. Using this approach, reviewers found that of the 27 certification test reports reviewed:

- 7 percent (2) of the appliances appeared to comply with the requirement.
- 7 percent (2) of the appliances appeared not to comply with the requirement.
- 22 percent (6) of the appliances did not have sufficient data in their test reports to determine compliance.

- 63 percent (17) of the appliances did not have conditioning data in their complete test report.

Appliances with reports indicating that the test method's conditioning requirements were not met or which did not have conditioning data in the complete test report were flagged under revocation criteria.

This element highlights a common concern from reviewers regarding the lack of specificity in the test methods. This requirement would benefit from EPA guidance on proper procedures for completing conditioning.

Train Precision

Section 11.7 of ASTM Method 2515 requires the EPA-approved laboratory to complete two calculations to determine if the precision of the two trains used for PM measurement is sufficient: (1) dual-train precision cannot exceed 7.5 percent, and (2) the difference in the g/kg emissions in the two trains cannot exceed 0.5 g/kg. The RWH NSPS requires a test report to include all calculations required by the test method, including these metrics. The reviewers found that 93 percent (25) of the test reports did not contain train precision data. Failure to report these data limits reviewers' ability to assess the data quality of PM measurements. Appliances that did not report train precision information were flagged under revocation criteria.

Efficiency

Section 13.4.5.1 of ASTM 2618-13 states that whenever the efficiency calculated using the stack loss method is lower than the delivered efficiency, the test report must include a discussion of the reasons for those results. The stack loss method calculates the absolute maximum efficiency value that the appliance can achieve during test operations, and the delivered efficiency reports the heat delivered. Theoretically, delivered efficiency cannot exceed the efficiency calculated by the stack loss method unless the boiler is a condensing boiler. Condensing boilers may exceed stack loss efficiency calculations because they capture heat from the flue's water vapor.

Reviewers completed a comparison of stack loss versus delivered efficiency for all appliances. One of the 27 central heating appliances reviewed was a condensing boiler and was excluded from this analysis. Of the other 26 appliances, ten had at least one test run for which the delivered thermal efficiency values exceeded stack loss values. For six of those ten reports, that discrepancy occurred in every test run. Failure to discuss this issue in the test report is a method violation and raises concerns about the test's validity. Appliances that had this discrepancy and failed to address it in the test report were flagged under revocation criteria.

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Use of Unapplicable Sections

ASTM 2618 can be used in both cordwood and pellet boiler tests, but the method has separate operational components for each fuel type. Section 12.3 of the method details testing requirements for automatically-fed appliances (pellet or chip boilers). Section 12.2 details operational elements that apply to manually-fed boilers only. The operational components of ASTM 2618 go into greater specificity for manually-fed appliances than automatically-fed appliances. According to Section 12.3, automatically-fed appliances must operate in each test category to use ASTM 2618. Section 12.2 allows manually-fed appliances to conduct two Category 2 tests in lieu of a Category 1 test if the device cannot maintain a fire in Category 1. Section 12.2 also states if an appliance overheats while attempting to operate in any burn category, it cannot use ASTM 2618 for testing.

A reviewer found an automatically-fed appliance used Section 12.2 components to eliminate the requirement to test in Category 1. The reviewer also noted that the appliance overheated in Category 1. It appeared that the appliance used test method practices that were not allowed for the appliance type tested. The review team contacted EPA in September 2020 to determine if an alternative test method had been granted to allow this deviation and learned that no ATM had been given, but the Agency did not explain why it had accepted the appliance's certification test report.

4.3.5. Revocation Criteria – Low Burn Rate Testing Revocation Criteria – Failure to Follow Test Methods

40 CFR § 60.5476) states, "the low burn rate category must be no greater than the rate that an operator can achieve in-home use and no greater than advertised by the manufacturer or retailer." Reviewers found no information in central heating test reports indicating that they had tested at the lowest burn rate. Based on reviews of the test report, reviewers could not confirm compliance with this provision for any test report.

4.3.6. Summary of Central Heating Certification Test Reports

Of the 27 test reports reviewed, each had at least one element that triggered revocation criteria. As shown in Table 8, each test report on average contained nine revocation criteria flags, twelve audit criteria flags, and eight missing elements. This review's findings indicate that issues with central heater certification testing and test reports are widespread and not identified by either ISO third-party reviewers or by EPA OECA.

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Table 8. Summary of Central Heating Test Report Review Deficiencies

	Missing Report Elements (33 total)	Revocation Criteria Flags (12-15 total)	Audit Criteria Flags (23 total)
Low	3	4	6
Average	8	9	12
High	12	12	22

4.4. Overarching Issues

In each appliance category, reviewers identified report issues that raised questions about testing integrity. The following section details those elements.

4.4.1. Summary Reports

Reviewers noted that the information contained in the test reports and the associated summaries varied significantly. 40 CFR § 60.533(b)(5) requires that "[d]ocumentation must include discussion of each test run and its appropriateness and validity, and must include detailed discussion of all anomalies[.]" The discussion materials in each of the test reports often failed to call out anomalies. More than 50 percent of the test reports failed to discuss issues encountered in testing. For example, discussions did not report negative filter weights, proportionality issues, train precision deviations, or other issues found in this review. In some cases, the detailed discussion of each run was only a single sentence. Reviewers also noted discrepancies in the data from the summary reports versus the data contained in the raw datasheets. Overall, reviewers noted a lack of reporting of deviations and discrepancies in test report summaries and specific run discussions. This is an area that would benefit from EPA guidance on reporting requirements.

4.4.2. Owner's Manual

40 CFR § 60.536(g) and § 60.5478(f) provide specific information that must be included in the owner's manual. As part of the certification application package, the manufacturer must submit an owner's manual. EPA reviews these manuals to ensure rule requirements are met. Despite EPA review, however, this study found numerous examples of owner's manuals not complying with the rule requirements.

Reviewers identified 16 elements that must be part of the owner's manual. Table 9 summarizes the findings of the review. Approximately 10 percent of the room heater and 37 percent of the central heater owner's manuals could not be found on the manufacturers' websites (a rule requirement), nor were they included in the test reports. On average, cordwood stove owner's manuals had two missing elements, pellet stove owner's manuals had four missing elements, and central heater owner's manuals had one

missing element on average. Appliances that did not have owner's manuals available or had deficient owner's manuals were flagged for audit criteria, as these elements can be addressed without retesting.

Table 9. Summary of Missing Owner's Manual Elements

	Cordwood Stoves	Pellet Stoves	Central Heaters
Low	0	0	0
Average	2	4	1
High	14	13	2
No owner's manual found	0% (0)	10% (9)	37% (10)

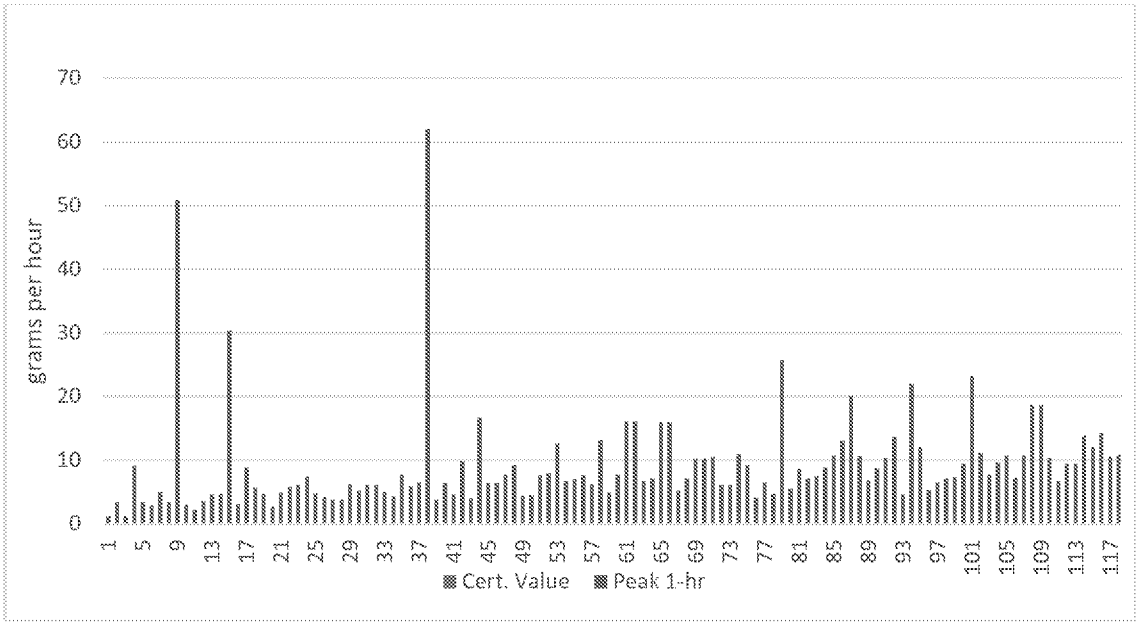
4.4.3. First-hour Values

Reviewers assessed the first-hour metric to determine the performance of the stoves over a short-term period. Reported emission values for certification are the average of multiple runs using average emissions over each individual test run, which can last from 3 to 30 hours or more. Research shows that almost all the emissions from residential wood heating are emitted in the first few hours after fuel loading. Therefore, the first-hour metric provides insights into the ability of an appliance to control for high PM during loading periods.

Space Heaters

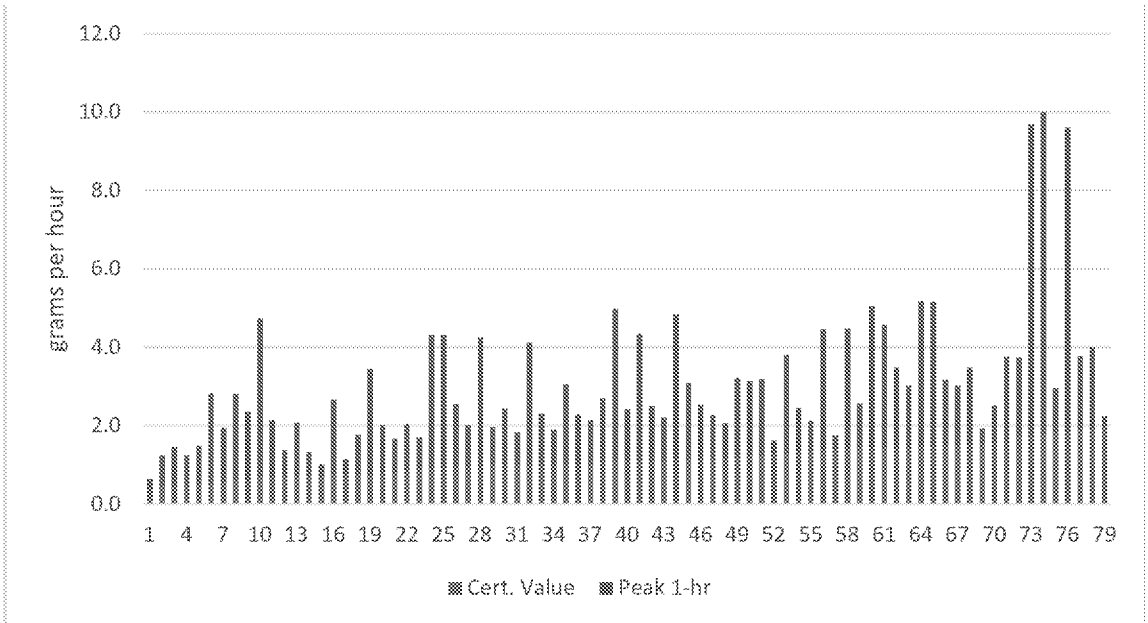
For cordwood stoves, 42 percent (54) had first-hour emission rates that were more than three times higher than the emission standard. On average, first-hour emissions were 616 percent higher than the appliances certification value. The first-hour values ranged from 132 percent to 7,842 percent higher, as shown in Figure 17. Appliances with high first-hour PM values are not necessarily those with higher overall emissions, nor are higher first-hour values associated with a particular control approach (catalytic or non-catalytic).

Figure 17. Certification Values vs. Peak First-hour Values for Cordwood Stoves



Patterns for first-hour PM emission rates for pellet stoves differed from cordwood stoves (Figure 18). Only 15 percent (13) had first-hour emissions three times higher than their average values. On average, first-hour emissions were 175 percent higher than the appliances certification value. The first-hour values ranged from 14 percent to 576 percent higher. Comparing first-hour values for pellet stoves indicates that the first hour of operation may not be the period of highest emission rates.

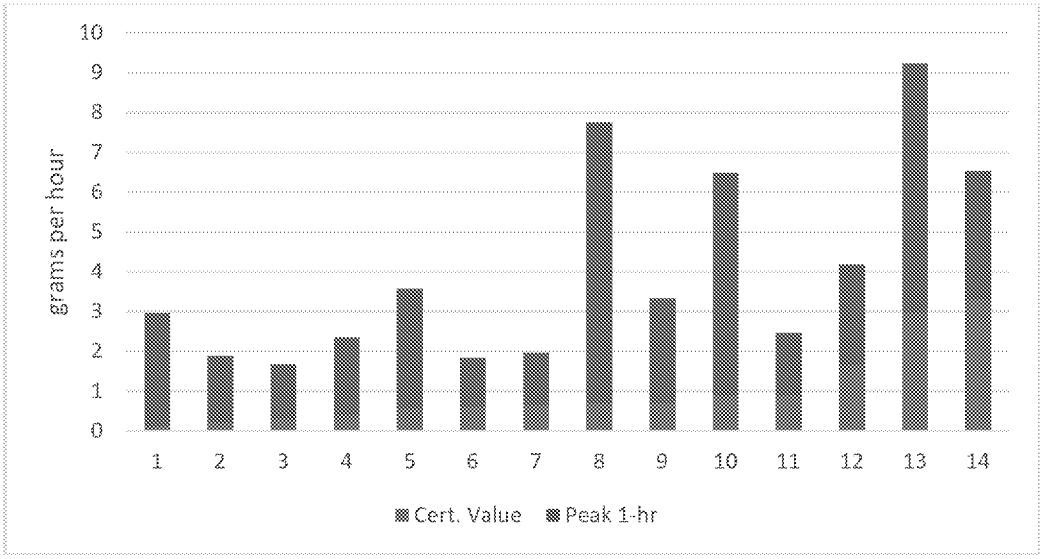
Figure 18. Certification Values vs. Peak First-hour Values for Pellet Stoves



Central Heaters

Reviewers also analyzed first-hour emissions for cordwood and pellet central heaters, as shown in Figure 19. Sixty-four percent (9) had first-hour emissions three times higher than their average values. On average, cordwood central heaters' first-hour emissions were 813 percent higher than the appliances' certification values. The first-hour values ranged from 98 percent to 2,367 percent higher. On average, the first-hour emissions for pellet central heaters were 356 percent higher than the appliances' certification values. The first-hour values ranged from 147 percent to 731 percent higher.

Figure 19. Certification Values vs. Peak First-hour Values for Central Heaters



4.4.4. Audit Criteria – Laboratory Receipt Dates

Under the test methods and rule requirements, test reports need to include the dates of certain events, such as appliance conditioning dates, the date the EPA-approved lab received the appliance, and certification testing dates. Reviewers noted numerous incidents where the dates reported were difficult to reconcile with the timing needed to undertake the steps reported. Examples of contradictory information include:

- The lab completed the conditioning, which requires 48-50 hours of operation, but the lab reported not receiving the unit until the day of or day before testing.
- The lab reported it had completed the conditioning, but the conditioning was completed before the lab reported that it had received the appliance.
- The manufacturer completed the conditioning, but the conditioning was completed after the lab reported that it had received the appliance for certification testing.

These discrepancies raise questions about how the certification test lab defines appliance receipt and what data is gathered during conditioning. Table 10 summarizes the reports with date receipt questions.

Table 10. Summary of Reports with Date Issues

	Room Heaters	Central Heaters
Reports with date issues	76	14
Reports that did not contain date issues	54	3
Reports where determinations could not be made due to missing data	84	10

Reviewers also noted that some appliances seemed to remain at the EPA-approved lab for an extended amount of time – more than a month – before conducting certification testing. Reporting the reason for testing delays in certification test reports would clarify the reason for lags in time between lab receipt and testing.

4.4.5. Audit Criteria – Laboratory Pre-testing

Per 40 CFR § 60.535 and § 60.5477(d)(2)(vi), EPA-approved labs must agree not to perform a certification review on any model from a manufacturer for which the lab conducted research and development design services within the previous five years. The term research is not defined in the rule, but it is generally understood to include gathering information or data on the device's performance.

Reviewers noted numerous examples in certification test reports indicating that the EPA-approved lab conducted pre-testing that could be construed as research, including emission testing, immediately prior to conducting certification testing. This assessment was based on statements in the reports, such as:

- "At the reception of the unit we do preliminary test runs to ensure the unit can reach the limit of the standard. We use those run{s}for aging of the unit."
- "The wood heater has been received in good shape by the carrier. A few screening tests have been done to ensure the repeatability of the results."

Other test reports indicated that the manufacturer ran the appliance in the EPA-approved laboratory facilities to conduct conditioning (i.e., aging) and testing to obtain emission data on the appliance prior to the laboratory conducting the certification test. Reviewers made this determination when the report stated that the manufacturer conducted the conditioning, but conditioning took place after the certification test laboratory received the appliance. Reviewers noted that some conditioning data appeared to resemble certification test loads.

The analysis estimated that 36 to 96 percent of cordwood stoves had EPA-approved laboratory-run tests to confirm emissions performance before the official certification test. The 2015 RWH NSPS stipulates that all testing data obtained by the certification lab must be submitted as part of the test report, whether or not it is used to for certification purposes. Issues with receipt dates, noted above, could be used as a basis for excluding test data. EPA should clarify requirements regarding these elements to assure that certification tests are done appropriately.

4.4.6. Audit Criteria – Appliance Modifications During and After Testing

Review of the reports found evidence that stove design elements were modified during testing or that prototypes tested were not complete models. For example, it appears that several units received at EPA-approved laboratories did not have defined air-stop settings. Reviewers also found examples of EPA-approved laboratories modifying the stop points during the certification test. As noted above, EPA-approved laboratories cannot conduct certification testing for a manufacturer if they have provided research and design services for that manufacturer in the previous five years. EPA should clarify what design and engineering activities EPA-approved laboratories can and cannot undertake prior to certification testing for the 2015 RWH NSPS.

4.4.7. Compliance Assurance Plans

In its certification application, the manufacturer must submit to EPA a compliance assurance plan. This plan must include regular unannounced audits at least once per year. EPA does not conduct the audit visits, as it has delegated inspection activities to the third-party certifiers under the 2015 RWH NSPS. As part of the compliance assurance plan, the third-party certifier must submit reports to EPA within 30 days of conducting an inspection. The reports are required to include deviations from the manufacturer's compliance assurance plan, and if deviations are identified, a plan for corrective action.

Reviewers did not find any information on compliance assurance plans in the publicly posted documentation. Reviewers then reached out to EPA to obtain information on compliance assurance plans, audit reports, and corrective actions. EPA OECA staff informed reviewers that both the plan and the inspection reports are submitted as confidential business information. Reviewers then checked EPA databases that are required to report compliance assurance and inspection activity. Reviewers found no data for these activities in any EPA database they reviewed. Furthermore, reviewers could not find any enforcement activity for this sector as having taken place in the last 20 years.

4.4.8. Compliance Audits

The RWH NSPS rule provides EPA with authority to select appliances for compliance audit testing, which is an available process separate from the revocation criteria. Audit testing is a useful procedural check to verify that production units offered for sale are meeting the emission standards to which the prototype was certified. The process requires the EPA Administrator to notify the manufacturer in writing of the selected heaters/model lines (name and serial number) to test. EPA can also specify the lab that will perform the audit test, which does not need to be the same lab that conducted the selected device's certification test. The manufacturer bears the costs of audit testing. Reviewers examined EPA records and could find no evidence that EPA has ever conducted a compliance audit under either the 1988 or 2015 RWH NSPS.

4.4.9. Sales Reporting Requirements

40 CFR § 60.537(d) and § 60.5479(d) require manufacturers to submit reports to EPA every two years that provide sales for each of their models by state. The rule does not specify that this information is confidential business information (CBI). However, in response to a request from NESCAUM seeking the manufacturer reports, EPA responded that all manufacturers have submitted sales data to EPA OECA as CBI.

NESCAUM also requested sales data aggregated by appliance type (pellet, non-catalytic, catalytic) at the state level. The only information EPA would provide is shown in Figure 20 below. While the release of sales information for individual models may raise CBI concerns, releasing aggregated state sales data for each appliance type would provide significant value for many state programs. Specifically, total sales data by state and by type of stove would help states understand how quickly units are changing over time and what types of appliances are entering their markets. This information also becomes significant in understanding the impacts of model types if they are found to be generally non-compliant under a more rigorous certification program.

Figure 20. Sales Data Supplied by EPA

Wood Appliance Sales Summary

March 9, 2020

Years Reported	2015-2017	% of Market	2017-2019	% of Market
Appliance type				
Wood and Pellet Stoves	190,332	98.72	219,537	97.01
HH	1,117	0.58	1,017	0.45
FAF	1,354	0.70	5,756	2.54
Total Units	192,803		226,310	

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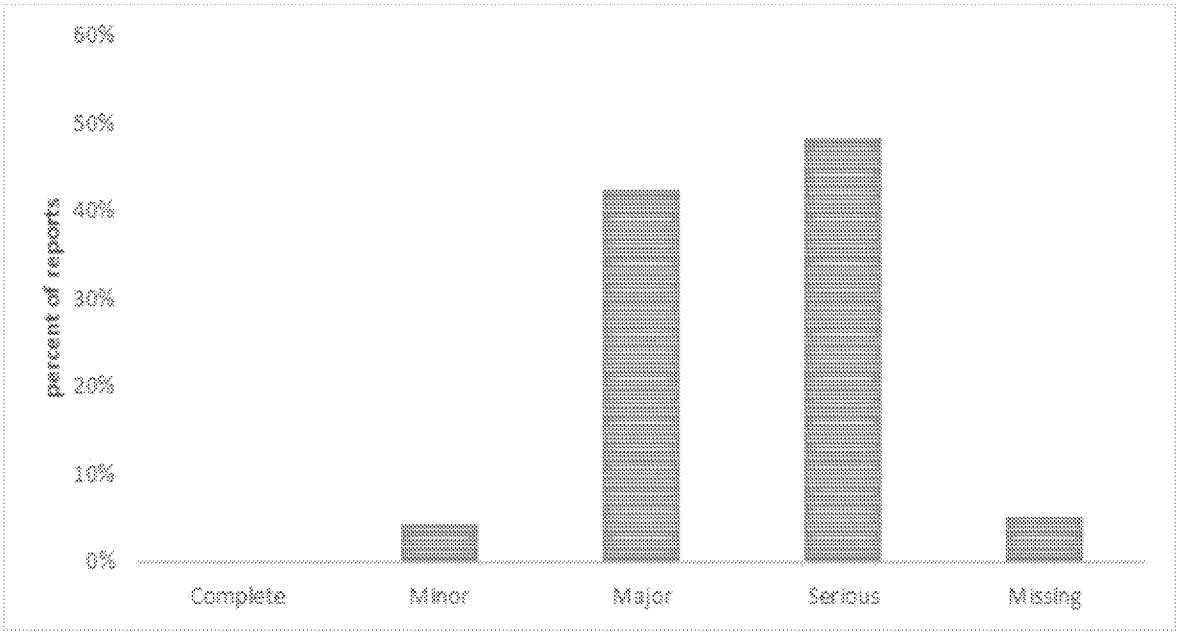
5. RECOMMENDATIONS AND CONCLUSIONS

This study's primary purpose was to evaluate the efficacy of the 2015 Residential Wood Heater NSPS program's third-party system for emission certification testing and review and EPA's oversight and enforcement of this process. The investigation revealed serious and systemic problems throughout the process, from conducting the test to report reviews. The study also identified weaknesses with existing certification test protocols that allow manufacturers and EPA-approved laboratories broad discretion in conducting tests. Those decisions significantly influence measured emissions when testing to certify new residential wood heaters.

5.1. Program Issues

The study attempted to review 255 Step 2 certified wood heater models (131 cordwood stoves, 96 pellet stoves, and 28 central heating appliances) to assess the RWH NSPS program's ability to assure compliance with regulatory emission limits. Reviewers could not find test reports for 13 appliances. Pellet stoves accounted for 10 of the 13 missing reports. Of the remainder of devices, none of their certification reports was found to be complete, and each report contained at least one revocation criteria flag (Figure 21).

Figure 21. Summary of Report Completeness



The study found numerous deficiencies in the test reports, and documented significant deviations from test methods and regulatory requirements. Even when manufacturers submitted additional information for review to address identified deficiencies, the majority of the deficiency flags, whether audit or revocation criteria flags, remained. Table 11 summarizes these findings.

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Table 11. Summary of Test Report Review Deficiencies

Deficiency Rates Ranges (avg)	Missing Report Elements	Revocation Criteria Flags	Audit Criteria Flags
	Cordwood Stoves		
Low	2	3	2
Average	11	8	8
High	24	12	15
	Pellet Stoves		
Low	2	4	1
Average	11	7	5
High	29	14	11
	Central Heaters		
Low	3	4	6
Average	8	9	12
High	12	12	22

This analysis found that test methods used to certify residential wood heaters are poorly designed. They lack clarity and specificity for many testing aspects, which reduces testing precision. This analysis shows that manufacturers and EPA-approved laboratories are able to use test method vagaries or voids to employ test strategies that may improve certification testing results but do little to improve appliance performance for consumer use. This undermines the public health and air quality goals of the RWH NSPS program because it allows certification of some units as Step 2 compliant without necessarily incorporating improved design and engineering practices that achieve real-world emission reductions.

The third-party certification review process as conducted was shown to be highly ineffective at identifying and reporting testing irregularities. The study found that third-party certifiers are issuing certificates of conformance for appliances that appear not to meet regulatory test requirements. The documented failures in the third-party process may be due to poor program design, the lack of competency of the groups involved, improper complicity between third-party reviewers and manufacturers, or some combination of the three.

Study results also found that EPA has not used the RWH NSPS auditing provisions to verify that production models are substantially similar to the prototypes used in certification testing, and that those offered for sale are meeting the applicable emission standards. Lack of basic auditing undermines confidence in the RWH NSPS program and its ability to ensure that new residential wood heating appliances are meeting the federal emission standards in the real world.

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A major challenge in conducting this study's review of the RWH NSPS program was in obtaining key information from EPA, which demonstrates the need for greater transparency. For example, EPA-approved laboratory inspections and compliance assurance activities are treated as confidential business information (CBI) by EPA and therefore unavailable for public review. By contrast, state and local programs must report all data into EPA's Enforcement and Compliance History Online (ECHO) database and other online reports or dashboards created to assess program efficacy.

These study results provide detailed documentation of the 2015 RWH NSPS program's failures to protect the public from the adverse health effects associated with exposure to wood smoke from new residential wood heaters. Some models certified to the Step 2 standards are not likely to consistently achieve those emission levels when in-use due to a host of weaknesses uncovered with the rule's testing and enforcement elements.

Despite the responsibility and clear authority provided in the Clean Air Act, EPA has failed to effectively enforce the New Source Performance Standards for Residential Wood Heaters requirements. The Agency has not provided the needed oversight, nor has it used the legal remedies provided, including revocation of certificates of conformance or audit testing, to enforce the rule.

5.2. Recommendations for Program Improvement

A strong and broad response is needed to correct the failures of the RWH NSPS program identified through this study. Some of these program weaknesses can be minimized in the near-term if EPA makes a firm commitment, and follows through in good faith, to fully enforce the existing requirements according to the clear language of the RWH NSPS. Others must be addressed through rule changes.

5.2.1. Third-Party Review Process

The EPA Inspector General should conduct an investigation of the third-party review system, and the responsible ISO bodies should call for an inquiry into their accreditation processes. EPA-approved laboratories that conduct certification testing should not be eligible to participate in the third-party review process. EPA should initiate action against third-party certifiers that have not adhered to test method and rule requirements. Finally, EPA should reassess the validity and viability of the third-party review process as a cornerstone of this program in the next update to the RWH NSPS.

5.2.2. Enforcement of Certification Test Results

EPA should conduct a detailed review of the problematic certification test reports identified in this study. The Agency should hold hearings and, where appropriate, revoke certifications for models failing to meet the 2015 RWH NSPS rule requirements.

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The findings of this report suggest that some manufacturers and EPA-approved laboratories may be "optimizing" certification tests to qualify models as Step 2 compliant by employing methods inconsistent with the approved protocols. At a minimum, models should undergo compliance audits as allowed per 40 CFR § 60.533(n) to verify the ability of production units to meet the emission standards to which the prototype was certified. To date, EPA has not conducted a single compliance audit during the more than 30 years this program has been in place. To address this, EPA should implement routine compliance audits on 10 percent of appliances each year. The audits should begin by targeting heater models that conducted non-representative tests. Appliances should not be allowed to recertify their appliances without retesting. Waiver provisions that allow manufacturers to avoid retesting of appliances should be eliminated. Retesting should require addressing deficiencies identified in the appliance review sheets, and, given today's communication technologies, remote witnessing of testing.

5.2.3. Targeting Public Funding to Cleanest Appliances

Government funds for wood heater change-out programs should be used only for the cleanest appliances with valid test reports. Government agencies and nonprofits funding change-out programs should disqualify units that are certified as Step 2 compliant but fail to meet the rule's requirements. Taxpayer-supported incentive programs, such as the 26 percent federal tax credit created under the BTU Act, EPA Targeted Airshed grants, and state-supported activities, should only apply to those appliances included on the list of approved models developed by the Alaska Department of Environmental Conservation. This currently is the only thorough review of certification test reports applying the 2015 RWH NSPS requirements.

5.2.4. Improving Certification Test Methods

Current cordwood test methods used to certify residential wood heaters are poorly designed and often lack the specificity to ensure viable and comparable emission results. EPA should revoke or modify problematic test methods. The ASTM 3053 test should be revoked as a Broadly Applicable Test Method. EPA should expedite rulemaking or guidance to close loopholes and reduce deficiencies in ASTM and CSA test methods. Over the longer term, EPA should fully fund efforts to develop new test methods that bring integrity, reliability, and representativeness to testing outcomes.

5.2.5. OECA Enforcement and Oversight

EPA should establish residential wood heaters as a high priority enforcement sector and immediately begin a permanent and effective enforcement initiative . EPA should take enforcement action against third-party certifiers that do not adhere to method and rule requirements. Enforcement action should be taken under 40 CFR § 50.535(b) against

EPA-approved laboratories that fail to follow required procedures or practices with the goal of assuring lab independence and competence while eliminating coordination between labs and manufacturers that inappropriately "optimize" test results and modify appliances during testing. Finally, EPA should request a revision to ISO procedures to ensure the certification system's integrity and competence.

5.2.6. Program Transparency

The results of this analysis demonstrate that significant improvements in transparency are needed for the certification and enforcement components of the RWH NSPS. For example, EPA-approved laboratory inspections and compliance assurance activities are treated as confidential business information (CBI). There is no clear justification why these elements would be considered CBI as they do not pertain to typical CBI elements, such as product designs or manufacturing processes. Instead, EPA should eliminate claims of CBI for all compliance assurance monitoring activities. EPA should develop a strategy to ensure all manufacturers post complete non-CBI test reports and take enforcement action against all manufacturers who post incomplete non-CBI test reports, as defined by the rule. EPA should eliminate the use of confidential ISO compliance assurance audits, and all audit findings should be posted on the Enforcement and Compliance History Online (ECHO) database maintained by EPA. EPA should develop and require the use of a standardized certification report template.

5.2.7. Investigating EPA Program Oversight and Enforcement

The EPA Inspector General or Congress should conduct a review of EPA's OECA and Office of Air Quality Planning and Standards (OAQPS) with a focus on identifying practices to improve Agency oversight and enforcement of the 2015 RWH NSPS program.

5.3. Conclusions

This study covered over 250 Step 2 certified wood heater models (131 cordwood stoves, 97 pellet stoves and 23 central heating appliances) to assess the ability of EPA's program to assure compliance with RWH NSPS regulations. Some of the identified models did not have publicly available certification test reports, as required by the regulations. For the remainder, no report was found to be complete and in full compliance with RWH NSPS requirements. Seventy-two percent of the ISO/EPA certified reports contained issues listed as Criteria for Revocation of Certification under the 2015 RWH NSPS; 24 percent of the test reports were too incomplete to make determinations; and the remaining 4 percent had minor issues.

The third-party certification review process appears highly ineffective at identifying and reporting testing irregularities. The documented failures in the third-party process may be

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due to poor program design, the lack of competency of the groups involved, improper complicity between third-party reviewers and manufacturers, or some combination of the three. Study results also highlight the lack of EPA's use of the auditing program to ensure production models are substantially similar to the prototypes used in certification testing, and that those offered for sale are meeting the applicable emission standards.

This analysis also uncovered a lack of transparency in the RWH NSPS program. Reviewers were often unable to access key data and information on certification testing. An overly broad assertion of confidential business information has removed non-proprietary compliance assurance activities from public review.

Based on the identified shortcomings in this review, the 2015 RWH NSPS certification program fails to assure that new residential wood heaters are uniformly cleaner than past devices before the new standards went into effect. A flawed testing and review system coupled with a historical lack of EPA enforcement of basic program elements work in tandem to undermine the public health goals of the program. The end result is a program devoid of any credibility to ensure that new residential wood heating appliances are meeting federal emission standards, and that gives every indication that scarce public resources are being misspent on incentive programs meant to encourage the more rapid introduction of cleaner wood burning appliances that truly reduce emissions.

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Appendix A: EPA Emails on Certification Testing

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Appendix A: EPA Emails on Certification Testing

Note: The following three email texts sent by EPA are unedited copies of the originals.

Email 1 of 3

From: Johnson, Steffan
Sent: Thursday, June 13, 2019 4:19 PM
To: Alex Tiegs <atiegs@omni-test.com>; 'brian.brunson@intertek.com' <brian.brunson@intertek.com>; 'brian.ziegler@intertek.com' <brian.ziegler@intertek.com>; 'claude.pelland@intertek.com' <claude.pelland@intertek.com>; 'dpower@polytests.com' <dpower@polytests.com>; 'dvoracek@szutest.cz' <dvoracek@szutest.cz>; 'gpiedalue@polytests.com' <gpiedalue@polytests.com>; Henrik Persson <henrik.persson@ri.se>; Jared Sorenson <jsorenson@omni-test.com>; Jes Andersen <jsa@teknologisk.dk>; 'jsteinert@dirigolab.com' <jsteinert@dirigolab.com>; Kelli O'Brian <kelli@clearstak.com>; 'lennart.aronsson@sp.se' <lennart.aronsson@sp.se>; Toney, Mike <Toney.Mike@epa.gov>; 'John Steinert' <john.steinert@pfsteco.com>; 'WTerpstra@PFSCorporation.com' <WTerpstra@PFSCorporation.com>; 'Benjamin.Barker@csagroup.org' <Benjamin.Barker@csagroup.org>; 'Travis.F.Hardin@ul.com' <Travis.F.Hardin@ul.com>; Laura Hinton <lhinton@guardiantestlabs.com>
Cc: Sanchez, Rafael <Sanchez.Rafael@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Aldridge, Amanda <Aldridge.Amanda@epa.gov>; Baumgart-Getz, Adam <Baumgart-Getz.Adam@epa.gov>; French, Chuck <French.Chuck@epa.gov>; Boyd, Rochelle <Boyd.Rochelle@epa.gov>; Lowe, Theresa <Lowe.Theresa@epa.gov>; Cozzie, David <Cozzie.David@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Hemby, James <Hemby.James@epa.gov

Subject: Reporting Emissions Test Results when using Alt-125, or Alt-127 (ASTM E-3053)
Importance: High

To all EPA Approved Wood Heater Test Laboratories and Third Party Certifiers,

In reviewing some recent test reports that have been submitted to EPA with the intent to certify a wood heater to the Subpart AAA cordwood emissions standard, there are some discrepancies and concerns that we are observing, and we will be asking some manufacturers to revise and resubmit a corrected compliance test report. At least one of these concerns (noted below) is critical and may require re-testing. All of these items are important enough to request a corrected report, and we wanted to let all of you know just why you may be contacted by your client(s) with such a request.

We have seen a number of test reports using the Alternate Test Method and ASTM E-3053 that do not identify the species of cordwood used for the compliance testing. While

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it is true that the ASTM method allows selection from a wide list of wood species, the test report must identify the species of fuel used. This is specified not in the test method but in the General Provisions to EPA 40, Part 60.8 (f)(2) which governs content that must be included in the test report. Paragraph (iii) of this section reads: *"(iii) Description of the emission unit tested including fuel burned, control devices, and vent characteristics; the appropriate source classification code (SCC); the permitted maximum process rate (where applicable); and the sampling location."*

We are asking that test reports that did not identify the wood fuel species burned during a compliance test submit an amended test report to this Agency. If you are a third party reviewer and have certified such a test report, we request that you include this item, along with other items listed in the General Provisions, in your review checklist.

We have seen some test reports that reference "manufacturer's instructions" for conducting the certification test, yet those instructions were not included in the test report. The requirement to submit this information is to comply with the General Provisions of 60.8(b) and (c). The guiding principle here is that ONLY the EPA Administrator has the ability to modify a test method for any reason, and these manufacturers instructions do NOT supersede the test method. Also, the National Stack Test Guidance Document (available here: https://www.epa.gov/compliance/clean-air-act-national-stack-testing-guidance) clearly states that the emissions test report "*must demonstrate all information from the test lab such that it is a stand-alone document capable of reproducing the entirety of the test results*". As such, all information pertinent to the operation of the appliance during the testing must be included in the test report (per 40 CFR 60.534). Also, as such instructions are relevant to how the testing was conducted, this documentation is Confidential Business Information (CBI).

We are asking manufacturers that have issued test reports where the manufacturers provided instructions to the test lab regarding appliance operation during the test, and that documentation was NOT included in the emissions test report available to the public, to take corrective action and submit an amended test report to this Agency. If you are a third party reviewer and have certified such a test report, we request that you now include this item, along with other items listed in the General Provisions, in your review checklist.

We have seen some test reports that contain manufacturer's instructions that may run contrary to the test method and rule requirements. Specifically, we have seen instances where manufacturers have directed laboratories to conduct low load testing with air inlet damper settings at "specified distances from fully closed", meaning that the unit may not be getting tested at the lowest operating rate that a homeowner will have access to during the course of normal daily operation. Testing at the lowest setting a consumer will be able to operate the appliance in their home is specifically required in 40 CFR 60.534.

Test labs and third party certifiers who are conducting /observing testing where manufacturers provided such instructions AND where you have knowledge that such devices are capable of combustion with air inlet dampers more fully closed than those setpoints specified by the manufacturer review the rule requirements with their client(s)

and either select the lowest available setpoint or modify that stove model to fix the lowest available air inflow setting at that specified point, to remain fixed thereafter. Furthermore, we insist that laboratories and third party certifiers add the requirement(s) of 60.534 to their checklists and take necessary steps to not look past this requirement in the future. Appliance models found to have been tested in this manner and subsequently certified, will need to be reviewed by EPA on a case-by-case basis. As a reminder, third-party certification is an attestation that all testing was conducted as specified in the regulation; certification of testing that does not meet the regulatory requirements may result in loss of EPA Approval status.

We have seen some test reports where cordwood fuel is used to demonstrate compliance, and the dimensions of the "cordwood" very closely match the dimensions of crib fuel. While we recognize that it may happen that occasionally a wood splitter would produce a piece where the minor cross section is nearly equal to the major cross section of the fuel piece, we expect that this happens infrequently and is not normal for every piece in a fuel load.

We ask that labs and third party certifiers use pieces that approximate hand-split fuel and not something that seems to be far more selective. While fuel pieces are 'selected' for the test based on size and weight and, to some extent, dimension, we expect to see fuel loads that are more random (in terms of piece-to-piece comparisons) than not.

As always, thank you for continuing to support the EPA Wood Burning Appliance Certification Program. Please do not hesitate to reach out to us and ask questions, any time, with respect to any certification tesing you are undertaking; we are happy to offer our technical direction to help you, and your clients, meet the subpart AAA and QQQQ regulatory requirements.

Email 2 of 3

Subject: RE: Reporting Emissions Test Results when using Alt-125, or Alt-127 (ASTM E-3053)
From: "Johnson, Steffan" <johnson.steffan@epa.gov>
Date: 7/15/19 11:31 am

CORRECTION TO ITEM 2 BELOW: NO EMISSIONS TEST INFORMATION IS CONFIDENTIAL. The last sentence is intended to read "is NOT Confidential Business Information".
I regret the confusion this may have caused. Such information MUST be included in the non-CBI report.
Sincerely,
Stef Johnson

Email 3 of 3

From: Johnson, Steffan
Sent: Wednesday, December 4, 2019 10:11 AM
To: bdavis@omni-test.com
Cc: Alex Tiegs <atiegs@omni-test.com>; Ken Morgan <kmorgan@omni-test.com>; Boyd, Rochelle <Boyd.Rochelle@epa.gov>; Sanchez, Rafael <Sanchez.Rafael@epa.gov>; French, Chuck <French.Chuck@epa.gov>; Scinta, Robert <scinta.robert@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Yellin, Patrick <Yellin.Patrick@epa.gov>; Aldridge, Amanda <Aldridge.Amanda@epa.gov>; Baumgart-Getz, Adam <Baumgart-Getz.Adam@epa.gov>; Hemby, James <Hemby.James@epa.gov>; Wayland, Richard <Wayland.Richard@epa.gov>; Lowe, Theresa <Lowe.Theresa@epa.gov>; Lessard, Patrick <Lessard.Patrick@epa.gov>

Subject: RE: Morso Model 5660B Certification Inquiry
From: Toney, Mike <Toney.Mike@epa.gov>
Sent: Tuesday, December 3, 2019 9:13 AM
Dear Mr. Davis,

Mike Toney forwarded your questions below to my attention, and I will endeavor to address your concerns to an appropriate level.

First off, let me be very clear that the Third Party Certification program is intended to function as an "…independent third party accredited under ISO-IEC Standards 17025 and 17065 to perform certifications, inspections and audits by an accreditation body that is a full member signatory to the International Laboratory Accreditation Corporation Mutual Recognition Arrangement and approved by EPA for conducting certifications, inspections and audits" under subparts AAA and QQQQ of US CFR, Part 60. I state this up front to point out that EPA expects that Third Party Certifiers have processes in place that guide them through situations such as the questions you pose below, or the statements made by the manufacturer in the attached letter and instructions. That said, we're all trying to navigate the rule and cordwood compliance testing is relatively new, so I'll try to shed some light on how the Measurement Technology Group views the compliance test process in order to help you in your Determination Guidances. Keep in mind that the final review is conducted by our Office of Enforcement and Compliance Assistance in Washington, D.C., who conducts a 'trust but verify' review of the submitted test report and associated/required materials prior to granting a model Certification; I say that to let you know that what the Measurement Technology Group may view about a particular test question is <u>not</u> the final word on compliance certification.

Let me begin by turning back the clock to the 1988 NSPS rule that established Subpart AAA. Here is an excerpt from the preamble of EPA's 1988 wood heater rule:

"In response to questions received after proposal from accredited laboratories, a provision has been added clarifying the role of wood heater manufacturers during certification testing. This provision limits instructions by the wood heater manufacturer on wood heater operation to written communications prior to the beginning of the

certification test. The only exception as for the manufacturer who observes that the test is being improperly conducted. He may then notify in writing laboratory personnel of the problem(s). All instructions and notifications relating to the certification test shall be reported in the test documentation. Any special instructions are to be consistent with the operating instructions in the owner's manual, except to the extent that they address details of the certification test (e.g. achieving specific burn rates) that would not relevant to homeowner operation. In other words, the wood heater should not be operated during the certification test in a manner significantly different from homeowner operation in order to increase the likelihood of passing."

That statement holds today, under the new NSPS as well as it did in 1988. This means that while a manufacturer may provide input to the test laboratory on operation of the appliance during the certification test, specific instructions that stray from typical homeowner operation, intended to lower the emissions of the appliance solely for the certification test, are not acceptable.

- MTG believes that examples of such instructions with respect to a cord wood compliance test include (but are not limited to):
- Removing bark prior to use as test fuel.
- Shaping or extreme sorting to constitute preference for a particular shape of fuel or fuel load (not to emulate crib fuel or create 'triangular crib fuel').
- Loading and lighting fuel inconsistent with instructions in the appliance owner's manual.
- Complicated fuel placement instructions that would not ever be followed by a home owner.
- Manipulation of the ash bed inconsistent with, or otherwise in addition to, instructions included in the appliance owner's manual, or in a manner that a homeowner is unlikely to ever follow.
- Failure to meet method required fuel loading specifications (shortened fuel, partial loading, or not using the full firebox area to calculate fuel loading).
- Limiting fuel loading during compliance testing that will be easily overridden by a home user seeking a longer burn time.
- Instructions that specifically override specified sections of the test method OR the subpart rule language (inside or outside of the test method requirements).

For reference, we have put together what we feel reasonably describes cord wood fuel: A cross sectional area end view should not form a perfect (or near perfect) square (except occasionally) but to be of a triangular or trapezoid shape with ill regular lines, some curvy some, zig zag. But not all having the same length (pie shape is fine). It is acceptable to have some bark but not having all the bark stripped off. It is not acceptable for a test fuel load to consist of all bark being stripped off of every piece. We expect to have wood pieces that are torsion shaped or pieces that are rounds, semi-rounds, have rounded edges, or are larger at one end and smaller at the opposite end. No fuel load should consist of pieces all chosen to be the same size/shape characteristics.

Regarding the comment that states "we to not read that the procedure we have used is illegal, therefor we must assume that we can use the procedure" is not a statement that we ascribe to be true, on its face. Meaning, that we look for common sense and reasonableness in such interpretations. For example, the method does not say that the lab cannot cube the fuel into square, even chunks. It might burn clean, but would a home owner ever operate the appliance in that manner? No. So, use a reasonableness test when reviewing such procedures and ask yourself if you feel it is reasonable for the manufacturer to assume that such instructions, which should also be included in the operators manual, would be followed by the average homeowner during day to day operations. If yes, then I think you have your answer and, if no, likewise, you have your answer.

I would suggest that you pay close attention to items not included in the test method as well, such as instructions for setting a damper for a low burn rate test. Subpart 60.533(b)(5) has some requirements that must be in the test report and while this is a good checklist, the requirement there for documentation of *"...the burn rate for the low burn rate category must be no greater than the burn rate that an operator can achieve in home use and no greater than is advertised by the manufacturer or retailer..."* is of particular importance. So where you have a manufacturer telling you that *"...the damper setting for the low burn rate test should be set to XX millimeters from a fully closed position..."*, it is of key importance for your process to verify that the aforementioned damper is incapable of being closed further during ANY operation in the home than where it was placed during the compliance test. To clarify, the homeowner shall not be able to burn fuel at a lower rate than the lowest achieved during the compliance test, and this must be documented and such documentation included in the report to EPA.

Regarding your question about the room air blower, MTG feels that it is not a good idea to make assumptions about the impact of the blower when burning crib fuel and apply that directly to a cord wood test.

I hope this is helpful. Should you have questions about certification I would recommend you contact Dr. Rafael Sanchez who is copied on this e-mail.

Very sincerely,

Stef Johnson

Steffan M Johnson | Leader – Measurement Technology Group | US EPA Office of Air Quality Planning and Standards | Air Quality Assessment Division | 109 T.W. Alexander Drive, RTP, NC 27710 | Mail Drop: E-143-02 | Phone: (919) 541-4790 | Cell: (919) 698-5096

Message

From: POLITICO Pro Agriculture [alert@email.politicopro.com]
Sent: 2/2/2021 6:00:55 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Vilsack: Agriculture can deliver 'quick win' on climate change

Vilsack: Agriculture can deliver 'quick win' on climate change

By Helena Bottemiller Evich

02/02/2021 12:59 PM EST

Agriculture secretary-designee Tom Vilsack on Tuesday said that the agriculture sector was well-positioned to help the Biden administration score a "quick win" on climate change.

The context: Vilsack, who served as Agriculture secretary for all eight years of the Obama administration, has said climate change will be a top priority at USDA. If confirmed, he plans a major new focus on creating incentives to sequester carbon across farm and forest land.

During his confirmation hearing before the Senate Agriculture Committee, the former Iowa governor said he thought farmers and ranchers were ready to broadly change their practices with the right incentives in place.

"Agriculture is the first and best way to begin getting some wins in the climate area," Vilsack said during the hearing, which he joined remotely from Iowa.

"Farmers are prepared for it," Vilsack said. "Farmers are anxious to do it if it's voluntary, if it's market based."

"It's a quick win in terms of climate change," he added.

The details: Vilsack mostly discussed broad principles for providing incentives for carbon sequestration. He suggested farmers and ranchers needed to provide input on shaping the programs and that results need to be rigorously measured. The former secretary also committed to ramping up research into which practices work best and continuing data collection efforts within USDA.

"I think we need to step up our game when it comes to research and data," Vilsack said.

Who benefits: Vilsack repeatedly emphasized that any carbon incentives programs need to primarily benefit farmers, not third parties — acknowledging concerns that corporations and middlemen could potentially profit off new carbon markets.

Any effort USDA supports has to be geared toward benefiting farmers, he said. "If it does, I think there will be wide adoption."

Liz Crampton contributed to this report.

To view online:
https://subscriber.politicopro.com/agriculture/article/2021/02/vilsack-agriculture-can-deliver-quick-win-on-climate-change-2031712

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Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 3/4/2021 4:43:08 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Gina McCarthy to industry: 'Clean energy is winning'

Gina McCarthy to industry: 'Clean energy is winning'

By Zack Colman

03/04/2021 11:42 AM EST

White House domestic climate chief Gina McCarthy said the Biden administration plans to pursue emissions regulations to reinforce the market signals that are already driving adoption of cleaner technologies and products.

The news: McCarthy said at CERAWeek the administration intends to restore and advance rules the Trump administration ditched. The Biden administration is moving on a number of those efforts while also exploring new approaches for the power sector, moving away from the Obama-era Clean Power Plan that McCarthy spearheaded when she headed EPA.

"We are going to use regulatory authority that provides a level of certainty moving forward," she said.

McCarthy added that executives from electric utility and automakers that have met with the administration in its early days said the greater policy emphasis on climate change is prompting them to pursue low- or zero-emitting technologies.

McCarthy took those market signals as a victory for the Obama administration. While President Donald Trump reversed or halted many of the rules McCarthy worked on at EPA, she said those regulations had nonetheless steered markets and the private sector.

"These are efforts that will live far longer than the regulatory horizon," McCarthy said. "So I'm working hard to convince people that yes we lost time, but don't think that everything we did before was for naught, because clean energy is winning in the marketplace today."

Context: President Joe Biden's job is to accelerate those trends, McCarthy said, noting his administration is assembling an infrastructure package that will include electric vehicle charging stations, workforce training, transportation projects and resources for communities transitioning away from fossil fuels. She also noted the Energy Department will "have a big deployment wing" to install new technologies such as battery storage and buoy manufacturing.

"We are thinking about nothing left behind. Nothing left off the table," McCarthy said.

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https://subscriber.politicopro.com/article/2021/03/gina-mccarthy-to-industry-clean-energy-is-winning-3987387

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Message

From: Agri-Pulse Daily Harvest [sara@agri-pulse.com]
Sent: 3/2/2021 10:59:24 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daily Harvest 3/2/2021

Agri-Pulse Daily Harvest 3/2/2021

Agri-Pulse Daily Harvest

Agri-Pulse Daily Harvest -- 3/2/2021

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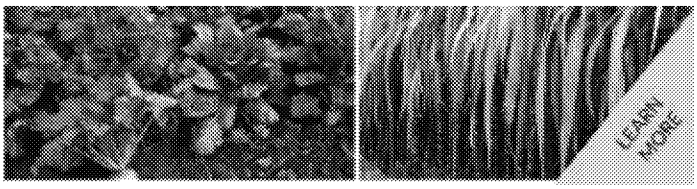
CONTINUE TO BUILD A BRIGHTER FUTURE BY PRODUCING SUGAR, SUSTAINABLY.


FARM & RURAL POLICY

Agri-Pulse: Daybreak for March 2, 2021

Link - (Audio) Vilsack outlines policy priorities to NFU; Crop insurance guarantees up sharply; USTR says it won't repeat China trade war.

Agri-Pulse: DriveTime: March 1, 2021

Link - (Audio) DriveTime features an update on USDA's equity work and encouragement from an ag industry leader to think critically about the impacts of the coronavirus pandemic.

Agri-Pulse: Vilsack plans 'equity' commission, names advisers on racial, market reforms
Link - Agriculture Secretary Tom Vilsack announced plans Monday to assign a commission to study issues of equity in agriculture and also named key advisers for racial issues and market reform.

ENERGY

KETV Omaha: Nebraska files legal action against AltEn ethanol plant near Mead
Link - Nebraska Attorney General Doug Peterson announced Monday that the state has filed legal action against AltEn ethanol plant near Mead.

Reuters: Biofuel leaders highlight policy, feedstock innovation in industry's future
Link - Industry leaders talked up the future of biofuels in the energy transition at IHS Markit's virtual CERAWeek conference on Monday, noting that policy incentives and feedstock innovation will be crucial going forward.

Reuters: To go electric, America needs more mines. Can it build them?
Link - Last September, in the arid hills of northern Nevada, a cluster of flowers found nowhere else on earth died mysteriously overnight.

Hartford Courant: State approves East Windsor solar farm, largest in the Northeast
Link - The Connecticut Siting Council has approved the largest solar development in the Northeastern U.S., a 120-megawatt project covering 485 acres.

The Guardian: Wind power company vows to help save critically endangered California condor
Link - The condor, a vulture threatened by giant wind turbines, may be helped by energy company's breeding project.

Houston Chronicle: Texas blackouts are a wake up call, federal energy official cautions
Link - The conundrum they face is how to shift away from burning oil and other fossil fuels upon which the world is so dependent for energy.

Texas Public Radio: CPS Energy's Costs During Winter Storm Crisis Reach Nearly $1 Billion For Energy, Fuel It Had To Buy
Link - CPS Energy officials are still figuring out the cost of the winter storm and energy crisis that left hundreds of thousands of people in San Antonio without power for days — but early estimates total almost $1 billion.

FOOD & NUTRITION

CNBC: This multibillion-dollar company is selling lab-grown chicken in a world-first
Link - Californian food start-up Eat Just is responsible for bringing the world's first lab-grown chicken to tables.

CNN: 5 is your lucky number of fruits and veggies to live longer, but not all of them count
Link - That's how many servings of fruits and vegetables you need to eat each day to live the longest, according to a new study released by the American Heart Association (AHA) that analyzed data representing nearly 2 million adults worldwide.

Food&Wine: Starbucks Adds Oatly Oat Milk Nationwide, Launches New Iced Shaken Espressos
Link - Oat milk is now the fourth non-dairy milk Starbucks offers in all of its shops.

Food Network: You're About to See A Lot More Chipotle Drive-Thrus

Link - The chain is planning to open about 200 more "Chipotlanes" this year.

KHOU.com: Food delivery late or never came? Some drivers skip orders for customers who don't tip
Link - Food delivery services are more popular than ever during the pandemic, but with that popularity have come more problems, particularly delivery orders arriving late.

VTDigger.oFood shelves struggle to keep up as pandemic drags on
Link - In Vermont, 70,580 people are currently struggling with hunger, according to Feeding America. Since the pandemic's onset, nearly 30 percent of Vermonters have experienced food insecurity — almost triple 2018 levels — a study by the University of Vermont found.

TRADE & INTERNATIONAL

Agri-Pulse: Vilsack: Canada and Mexico need to adhere to USMCA pledges
Link - Agriculture Secretary Tom Vilsack said Monday that one of his top priorities will be making sure Canada and Mexico live up to their promises under the U.S.-Mexico-Canada Agreement, a pact that is already showing cracks.

Reuters: Biden administration to consider carbon border tax as part of trade agenda: USTR
Link - The Biden Administration on Monday said it would consider carbon border adjustment taxes to help cut greenhouse gas emissions in global trade and intends to pursue "strengthened enforcement" to ensure that China lives up to existing trade obligations.

Food&Wine: How an Indigenous Tribe Is Preserving Ancestral Lands by Cultivating Heritage Sugar
Link - Using traditional, regenerative farming methods that protect biodiversity, Arhuaco tribespeople

in Colombia cultivate rare sugar from ancient varieties.

The Hindu: Farm, trade unions to join hands against farm laws, labour codes
Link - Farm unions under the Samyukt Kisan Morcha banner and 10 Central trade unions have agreed to carry out a joint campaign, combining their demands and planning common actions.

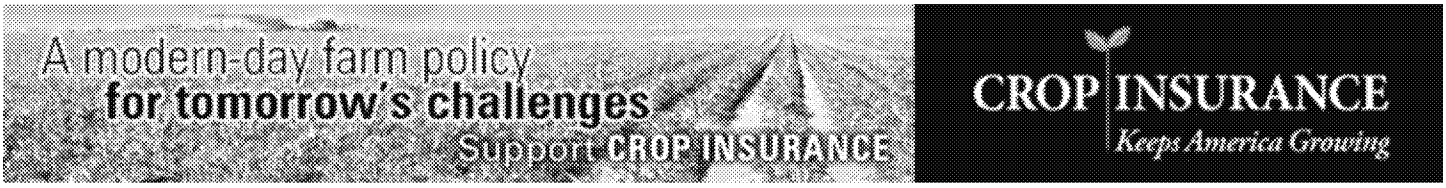
LABOR & IMMIGRATION

The New York Times: Thousands of Farmworkers Are Prioritized for the Coronavirus Vaccine
Link - Riverside County is the first in the nation to prioritize farm workers for vaccination, regardless of their age and health conditions, on a large scale.

NBC News: Biden admin will let migrant families separated under Trump reunite inside U.S.
Link - Lawyers for the families had asked the Biden administration to let parents deported without their children come back to the U.S. to reunify the families.

NPR: To Help Farmworkers Get COVID-19 Tests And Vaccine, Build Trust And A Safety Net
Link - Agricultural workers struggle to get access to the most basic tool to fight the spread of the coronavirus: testing.

Los Angeles Times: Vaccine rollout for farmworkers is fraught with confusion and bad timing
Link - The collision of harvest season with the Blue Shield takeover has left many community organizers and health officials worried that existing plans, though criticized for being inadequate and uneven, will be abandoned for a different set of uncertainties.



CONSERVATION & WILDLIFE

Vice: Banning the Sale of Wild Meat Might Actually Make Pandemics More Likely
Link - Conservationists have advocated a ban to prevent future pandemics and protect biodiversity. A new study suggests it might do the exact opposite.

Vox: "It's after the storm that's the hardest part": 390,000 Texans still don't have clean water
Link - The past year has further revealed the vulnerability of our water systems to extreme weather and climate change.

NPR: Kelp Farm Startup Aims To Bury Carbon And Slow Climate Change
Link - A Maine startup is drawing high-profile support for its low-tech plan to soak up carbon emissions.

Helena Independent Record: Conservation groups sue feds over Castle Mountains project
Link - Two conservation groups filed a lawsuit Monday in federal District Court against the U.S. Forest Service to halt the Castle Mountains logging and burning project.

Peninsula Daily News: US House approves conservation package
Link - The House has passed legislation that would create about 1.5 million acres of new wilderness and incorporate nearly 1,200 miles of waterways into the National Wild and Scenic Rivers System as Democrats move to protect more public lands — with President Joe Biden's blessing.

MISCELLANEOUS

Agri-Pulse: Opinion: The Dietary Guidelines provide opportunity for collaboration
Link - In this opinion piece, Tammy Anderson-Wise with Dairy Council of California looks at the

Dietary Guidelines for Americans as a call to action for agriculture to support nutrition education and food access programs.

NPR: Johnson & Johnson Vaccine Rollout Begins In U.S. As COVID-19 Cases Tick Up
Link - Johnson & Johnson has begun shipping the first nearly four million doses of its newly-authorized COVID-19 vaccine across the country, officials said Monday, and is expected to further scale up supply in the coming weeks and months.

BBC News: 'Farms are going to need different kinds of robots'
Link - From autonomous harvesting robots and drones that can spray crops, to artificial intelligence, and the use of "big data", farmers around the world are turning to high-tech solutions to address issues ranging from food insecurity, to climate change, and pandemic-induced staff cuts.

Associated Press: Nearly 600 Kentucky farm projects to share $5.9M
Link - A total of $5.9 million in tobacco settlement funds will go to nearly 600 farm projects across Kentucky, Gov. Andy Beshear said.

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From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 2/4/2021 3:31:25 PM
To: OAR Briefings [OAR_Briefings@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Subject: FW: Introducing OAP
Attachments: OAP Impacts Final_Feb3.pptx

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Sent: Thursday, February 4, 2021 10:16 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: FW: Introducing OAP

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Wednesday, February 03, 2021 3:38 PM
To: Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Alpert, Adina <Alpert.Adina@epa.gov>; Gunning, Paul <Gunning.Paul@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Newberg, Cindy <Newberg.Cindy@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Subject: RE: Introducing OAP

Thank you Chris! Really looking forward to the discussion. I believe Ale will be joining as well – cc'ing her here and reattaching the slides. Best,

Tomás

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Wednesday, February 3, 2021 3:29 PM
To: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Alpert, Adina <Alpert.Adina@epa.gov>; Gunning, Paul <Gunning.Paul@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Newberg, Cindy <Newberg.Cindy@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>
Subject: Introducing OAP

Tomás:
Our team looks forward to introducing OAP to you tomorrow---who we are, what we've achieved, and how we do our work. Attached is a presentation we wish to use to guide our conversation.

Chris

Christopher Grundler, Director
Office of Atmospheric Programs

U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Message

From: Farrar, Wanda [farrar.wanda@epa.gov]
Sent: 2/19/2021 9:30:11 PM
To: Young, Carl [young.carl@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Walker, Sherri [Walker.Sherri@epa.gov]; Garcia, David [Garcia.David@epa.gov]; Ngo, Kim [Ngo.Kim@epa.gov]; Donaldson, Guy [Donaldson.Guy@epa.gov]; Tanimura, Erin [Tanimura.Erin@epa.gov]; Davis, Suea [davis.suea@epa.gov]
Subject: RE: Region 6 Memo: Final Agency Review on the Revised Cross-State Air Pollution Rule Update for the 2008 Ozone National Ambient Air Quality Standard – Final Rule

Thanks so much, Carl!

From: Young, Carl <young.carl@epa.gov>
Sent: Friday, February 19, 2021 12:39 PM
To: Farrar, Wanda <farrar.wanda@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>; Walker, Sherri <Walker.Sherri@epa.gov>; Garcia, David <Garcia.David@epa.gov>; Ngo, Kim <Ngo.Kim@epa.gov>; Donaldson, Guy <Donaldson.Guy@epa.gov>; Tanimura, Erin <Tanimura.Erin@epa.gov>; Davis, Suea <davis.suea@epa.gov>
Subject: Region 6 Memo: Final Agency Review on the Revised Cross-State Air Pollution Rule Update for the 2008 Ozone National Ambient Air Quality Standard – Final Rule
Importance: High

Attached please find the Region 6 memo for the Final Agency Review on the Revised Cross-State Air Pollution Rule Update for the 2008 Ozone National Ambient Air Quality Standard – Final Rule (Tier 1; SAN 7811; RIN: 2060-AU84).

We look forward to Monday's Final Agency Review meeting.

Carl

Carl Young
EPA Region 6 Air Quality Program
(214) 665-6645

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 2/22/2021 9:53:16 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: FOR YOUR SIGNATURE: RFC Response for Acting AA Sig. & Email
Attachments: Tinker RFC 21001 Response Feb 22 2021.docx; RFC_21001_Greenhouse Effect.pdf

Joe, the attached response to a Request for Correction (RFC) is ready for your review and signature. The RFC was sent in October (attached). This response was developed by OAP and signed off by Chris Grundler. The response was then sent to OMB for review. The comments from OMB have been addressed in this final version. OMS and OGC have been involved in the process throughout. This response is past the 120-day mark and thus OMS is requesting that the signed letter go from your email to the requestor.

Please let me know if you have any questions. Thank you,

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Shoaff, John <Shoaff.John@epa.gov>
Sent: Monday, February 22, 2021 2:59 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Carroll, Maria <carroll.maria@epa.gov>; Faulkner, Martha <Faulkner.Martha@epa.gov>; Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>; Crimmins, Allison <Crimmins.Allison@epa.gov>
Subject: RFC Response for Acting AA Sig. & Email

Ann,

Please find attached (Word file) the final response to RFC 21001 (pdf) prepared courtesy of OAP. Comments from OMB have been addressed in this version. This letter is now ready for Joe Goffman to sign. Note that since this RFC is past the 120-day mark, OMS/EQMD would like the response to come as an email from the acting AA directly to the requestor. The response should be sent to: ftinker@airofdoubt.com and OMS/EQMD (Bob Tallent and Katharine Chalfont) should be cc'd. We could also send or have them (OMS/EQMD) send a hard copy via USPS as well. Thanks!

John

JOHN SHOAFF | DIRECTOR
OFFICE OF AIR POLICY & PROGRAM SUPPORT (OAPPS)
OFFICE OF AIR & RADIATION | U.S. EPA | WJC NORTH 5442-C
1200 PENNSYLVANIA AVE. NW | MC 6103A | WASHINGTON, D.C. | 20460 | USA
Shoaff.john@epa.gov | **1-202-564-0531 DIRECT | 1-202-257-1755 MOBILE**

Message

From: Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Sent: 2/5/2021 2:28:12 AM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Shoaff, John [Shoaff.John@epa.gov]
CC: Whitehurst, Shanika [whitehurst.shanika@epa.gov]; Lubetsky, Jonathan [Lubetsky.Jonathan@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: RE: CAAAC note and introductory mtg

Thank you, John and Tomás,
The note looks great to me. I also think one hour would be appropriate.

Here's the bio that I had provided for the EPA release. Thank you!

Alejandra Nunez, Deputy Assistant Administrator for Mobile Sources, Office of Air and Radiation

Alejandra joins EPA from the Sierra Club, where she served as a senior attorney at the Environmental Law Program. Her work focused on litigation and regulatory advocacy on federal greenhouse gas and corporate average fuel economy standards for light- and heavy-duty vehicles, carbon dioxide standards for new and existing power plants, state transportation and clean energy policies, and the integration of environmental justice in climate policy. Before Sierra Club, Ale worked as associate counsel at the World Bank's Legal Vice Presidency, where she advised on public-private partnerships in the energy and water infrastructure sectors, and was also an associate at Morrison & Foerster, where she represented clients on public trust issues, carbon sequestration projects, and conservation easements. Ale holds Doctor of Juridical Science (S.J.D.) and Masters of Law (LL.M.) degrees from Harvard Law School, and a law degree (LL.B.) from the Instituto Tecnológico Autónomo de México.

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Thursday, February 4, 2021 6:14 PM
To: Shoaff, John <Shoaff.John@epa.gov>
Cc: Whitehurst, Shanika <whitehurst.shanika@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Millett, John <Millett.John@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Subject: RE: CAAAC note and introductory mtg

Thanks so much John, adding Joe and Ale here so they can weigh in. I see you've flagged the need to fill in Ale's bio; otherwise the note looks good to me.

Personally I think it would be great to include Eunjung, and think an hour would be sufficient for an introductory conversation, but defer to the group on these. I also wanted to raise a question re timing - does it make more sense to do a meeting after we have an AA in place? Best,

Tomás

From: Shoaff, John <Shoaff.John@epa.gov>
Sent: Thursday, February 4, 2021 12:44 PM
To: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Whitehurst, Shanika <whitehurst.shanika@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: CAAAC note and introductory mtg

Tomas,

We're in the process of checking in with the CAAAC to thank reviewers for the recent Clean Air Excellence Awards, see draft note below, which also presents a nice opportunity to raise for their awareness and welcome you and the new leadership team to OAR. At the same time, we plan to poll members for dates to have an introductory conversation. Shanika's going to work with Delaney to hold some dates/times on calendars (with enough lead time so it can be published in the FR with 2 weeks notice), and wanted to see if:

1. you had any tweaks to the note below that we hope to send tomorrow,
2. counsel on the duration of the introductory conversation (thought an hour would work for an All-hands styled round of introductions, but it could take longer with Members' introducing themselves and suspect there's an appetite for Q&As among other potential updates?), and
3. others to also include, e.g., Eun Jung? Thanks!

P.S. John M. – do we've a bio for Ale that we could also add to the end of the note?

Draft note

Dear CAAAC,

Happy New Year! A lot has transpired since we last met and we look forward to reconvening soon.

Ex. 5 Deliberative Process (DP)

Thank you.

Shanika, DFO

Joseph Goffman, Principal Deputy Assistant Administrator, Office of Air and Radiation
Joe Goffman returns to EPA after serving from 2009 – 2017 as the Associate Assistant Administrator for Climate and Senior Counsel in the Office of Air and Radiation, where he provided policy and legal counsel on a wide range of climate policy and Clean Air Act regulatory and implementation issues and rulemakings. Since 2017 he has served as the Executive Director of the Environmental and Energy Law Program at Harvard Law School where he led a team of attorneys and communications specialists providing information and analysis to stakeholders, government decision makers and the media, and offering innovative responses on emerging issues in the areas of federal, state and municipal energy and electricity law and environmental and administrative law as well as in selected areas of corporate law. Joe also worked on the U.S. Senate Committee on Environment and Public Works as the Democratic Chief Counsel and Majority Senior Counsel. He holds B.A. and J.D. degrees from Yale University.

Tomás Elias Carbonell, Deputy Assistant Administrator for Stationary Sources, Office of Air and Radiation
Since 2012, Tomás Carbonell has held a number of positions at the Environmental Defense Fund (EDF), most recently as Senior Counsel and Director of Regulatory Policy for EDF's U.S. Clean Air program. His work included leading EDF's litigation and regulatory advocacy in defense of the Clean Power Plan and carbon pollution standards for new, modified and reconstructed power plants; defending Clean Air Act protections for hazardous air pollution from power plants and industrial sources; and advocacy in defense of EPA's use of rigorous health science and economic analysis. From 2008 until 2012, Tomás was an Associate at Van Ness Feldman, LLP, where he counseled diverse clients on federal legal and regulatory matters related to climate change, clean energy, and environmental and electricity regulation. He has a J.D. from Yale University, degrees in Environmental Change and Management and Development Economics from the University of Oxford, and bachelors' degrees in Chemical Engineering, Economics, and Multidisciplinary Studies from North Carolina State University.

JOHN SHOAFF | DIRECTOR
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The White House
Office of the Press Secretary
For Immediate Release

March 10, 2016

U.S.-Canada Joint Statement on Climate, Energy, and Arctic Leadership

President Barack Obama and Prime Minister Justin Trudeau share a common vision of a prosperous and sustainable North American economy, and the opportunities afforded by advancing clean growth. They emphasize and embrace the special relationship between the two countries and their history of close collaboration on energy development, environmental protection, and Arctic leadership. The two leaders regard the Paris Agreement as a turning point in global efforts to combat climate change and anchor economic growth in clean development. They resolve that the United States and Canada must and will play a leadership role internationally in the low carbon global economy over the coming decades, including through science-based steps to protect the Arctic and its peoples. Canada and the U.S. will continue to respect and promote the rights of Indigenous peoples in all climate change decision making. Furthermore, the leaders emphasize the importance of the U.S. and Canada continuing to cooperate closely with Mexico on climate and energy action and commit to strengthen a comprehensive and enduring North American climate and energy partnership.

Implementing the Paris Agreement

Canada and the U.S. will work together to implement the historic Paris Agreement, and commit to join and sign the Agreement as soon as feasible. As we implement our respective Intended Nationally Determined Contributions (INDCs), the leaders also commit to, in 2016, completing mid-century, long-term low greenhouse gas emission development strategies pursuant to the Paris Agreement and encouraging this approach with members of the G-20.

Canada and the U.S. will work with developing country partners to assist in implementation of their INDCs and strengthening their adaptation efforts. Both

countries will strive to enhance the effectiveness of adaptation assistance by coordinating support for adaptation planning and action through the National Adaptation Plans Global Network. The leaders also commit to working closely to promote the full implementation of the enhanced transparency framework with common modalities, procedures and guidelines under the Paris Agreement. They affirm their support for the new Capacity Building Initiative for Transparency, designed to enhance institutional and technical capacity to meet transparency requirements.

Recognizing the role that carbon markets can play in helping countries achieve their climate targets while also driving low-carbon innovation, both countries commit to work together to support robust implementation of the carbon markets-related provisions of the Paris Agreement. The federal governments, together and in close communication with states, provinces and territories, will explore options for ensuring the environmental integrity of transferred units, in particular to inform strong INDC accounting and efforts to avoid "double-counting" of emission reductions. They will also encourage sub-national governments to share lessons learned about the design of effective carbon pricing systems and supportive policies and measures. The countries will expand their collaboration in this area over time.

Coordinated domestic climate action

Building on a history of working together to reduce air emissions, Canada and the U.S., commit to take action to reduce methane emissions from the oil and gas sector, the world's largest industrial methane source, in support of achieving our respective international climate change commitments. To set us on an ambitious and achievable path, the leaders commit to reduce methane emissions by 40-45 percent below 2012 levels by 2025 from the oil and gas sector, and explore new opportunities for additional methane reductions. The leaders also invite other countries to join the target or develop their own methane reduction goal. To achieve this target, both countries commit to:

- *Regulate existing sources of methane emissions in the oil and gas sector:*
  - Ø The U.S. Environmental Protection Agency (EPA) will begin developing regulations for methane emissions from existing oil and gas sources immediately and will move as expeditiously as possible to complete this process. Next month, EPA will start a formal process to require companies operating existing methane

emissions sources to provide information to assist in development of comprehensive standards to decrease methane emissions.

Ø Environment and Climate Change Canada will also regulate methane emissions from new and existing oil and gas sources. Environment and Climate Change Canada will move, as expeditiously as possible, to put in place national regulations in collaboration with provinces/territories, Indigenous Peoples and stakeholders. Environment and Climate Change Canada intends to publish an initial phase of proposed regulations by early 2017.

- *Work collaboratively on federal measures to reduce methane emissions*: Building on the U.S.-Canada Air Quality Agreement, both countries will work collaboratively on programs, policies, and strategies, and share experiences on reducing oil and gas methane emissions as they implement their respective federal regulations, beginning this year.
- *Improve data collection, transparency, and R&D and share knowledge of cost-effective methane reduction technologies and practices*: To ensure our actions are based on the best available data and technology, Canada and the U.S. will work together to improve methane data collection and emissions quantification, and transparency of emissions reporting in North America, and share knowledge of cost-effective methane reduction technologies and practices.
- *Jointly endorse the World Bank's Zero Routine Flaring by 2030 Initiative*: Reflecting their increasing concern about the climate, environment, and energy security impacts of oil and gas flaring, particularly in sensitive regions such as the Arctic, the U.S. and Canada commit to jointly endorse the World Bank's Zero Routine Flaring by 2030 Initiative, and report annually on progress.

Both Canada and the U.S. affirm their commitment to reduce use and emissions of hydrofluorocarbons (HFCs) using their respective domestic frameworks and will propose new actions in 2016. Canada and the U.S. are both demonstrating leadership by updating their public procurement processes to transition away from high global warming potential HFCs, whenever feasible, through government purchase of more sustainable and greener equipment and products.

Recognizing the excellent collaboration between Canada and the U.S. to establish world-class, aligned regulations and programs to improve the fuel efficiency and reduce greenhouse gas and air pollutant emissions from on-road vehicles, the leaders reaffirm their commitment to continue this strong collaboration towards the finalization and implementation of a second phase of aligned greenhouse gas emission standards

for post-2018 model year on-road heavy-duty vehicles. The two countries are currently implementing aligned requirements for greenhouse gas emission standards for cars and light trucks and the leaders commit to continue close collaboration in conducting mid-term evaluations of the applicable standards for the 2022-2025 model years to ensure further acceleration of the improvement of vehicle efficiency and zero emission technologies

Given the integrated nature of many aspects of the U.S. and Canadian economies, alignment of analytical methods for assessing and communicating the impact of direct and indirect GHG emissions of major projects, and of measures to reduce those emissions, can be mutually beneficial. Canada and the U.S. will align approaches, reflecting the best available science for accounting for the broad costs to society of the GHG emissions that will be avoided by mitigation measures, including using similar values for the social cost of carbon and other GHGs for assessing the benefits of regulatory measures.

Advancing climate action globally

Beyond the Paris Agreement and areas of coordinated domestic climate action, President Obama and Prime Minister Trudeau underline the important opportunities to make further progress on climate action globally.

The U.S. and Canada affirm their commitment to adopt a Montreal Protocol HFC phasedown amendment in 2016, and upon adoption to provide increased financial support to the Protocol's Multilateral Fund to help developing countries implement a phase-down. The U.S. and Canada will continue to support a range of activities that promote alternatives to high global warming potential HFCs and promote greener technologies, including in those countries facing challenges such as high ambient temperatures.

The leaders express their strong commitment to work together and through the International Civil Aviation Organization (ICAO) to reduce emissions from international aviation by fostering technological and operational advancements, implementing the new carbon standard for airplanes, and adopting in 2016 a carbon offset measure that will allow for carbon neutral growth from international civil aviation. They encourage world leaders to join them in supporting adoption of the carbon offset measure at ICAO's fall 2016 Assembly.

The leaders will also work together and with other countries to encourage robust leader-level G-20 commitments to improve the environmental performance of heavy-duty vehicles, including through the implementation of stringent domestic regulations on fuel efficiency and/or greenhouse gas emissions, air pollutant emissions and low-sulphur fuels and green freight programs. They will also pursue G-20 commitments to reduce emissions of methane, including through private sector commitments and voluntary mechanisms such as the Oil and Gas Methane Partnership.

Recognizing the particular impact of climate change on countries already dealing with conflict and fragility, the leaders commit to addressing the intersection of climate change and security as an issue for foreign, defense, and development policies. Through the G-7 working group on climate and security and elsewhere, both sides will work together to support sound analysis, practical recommendations, and meaningful cooperation to address climate-fragility risks.

Cooperation on clean energy

Building on the strong and ongoing efforts by energy ministers under institutional arrangements such as the Canada-U.S. bilateral framework on energy cooperation, the North American Energy Ministers' recent understanding on Climate Change and Energy Cooperation, Mission Innovation, the Clean Energy Ministerial, and the Regulatory Cooperation Council, the leaders reaffirm their commitment to working together to strengthen North American energy security, phase out fossil fuel subsidies, accelerate clean energy development to address climate change and to foster sustainable energy development and economic growth. Specifically, the leaders pledge to enhance efforts in the following areas:

- *Facilitate the integration of renewables on our interconnected grids*: jointly study, identify, and implement options for broad integration, including how to bring more wind, solar, hydro and other renewable energy online.
- *Align energy efficiency standards and expand shared labeling programs*: better align and further improve appliance and equipment efficiency standards by 2020 and expand cooperation on the ENERGY STAR program.
- *Accelerate clean energy and clean technology innovation*: leverage participation in Mission Innovation, and strengthen collaboration on clean energy research and development for: reducing methane emissions; improving electrical grids; accelerating electric vehicle development and integration; unconventional oil and gas; carbon capture, use and storage; and, new cutting-edge technologies.

- *Advance global efforts to accelerate clean energy*: partner to help to lead important multi-lateral efforts such as Mission Innovation and the Clean Energy Ministerial and its initiatives.
- *Develop a joint U.S.-Canadian strategy for strengthening the security and resilience of the North American electricity grid*: work together to strengthen the security and resilience of the electric grid, including against the growing threat from cyber-attacks and climate change impacts.

A shared Arctic leadership model

Beyond deepening cooperation to reduce greenhouse gas emissions – which will have an outsized impact on the long-term health of the global Arctic – President Obama and Prime Minister Trudeau are announcing a new partnership to embrace the opportunities and to confront the challenges in the changing Arctic, with Indigenous and Northern partnerships, and responsible, science-based leadership. Arctic communities rest on the territories of Indigenous peoples, who possess a wealth of knowledge, distinct ways of life, and a richness of cultural diversity. It is home to natural marine, land and air migrations that know no borders. It is also the frontline of climate change. Acting for a shared future, we call on all Arctic nations and those with Arctic interests to embrace a new future for Arctic leadership, with our four objectives:

Conserving Arctic biodiversity through science-based decision making. Canada and the U.S. re-affirm our national goals of protecting at least 17% of land areas and 10% of marine areas by 2020. We will take concrete steps to achieve and substantially surpass these national goals in the coming years. Specifically, we will work directly with Indigenous partners, state, territorial and provincial governments to establish this year a new, ambitious conservation goal for the Arctic based on the best available climate science and knowledge, Indigenous and non-Indigenous alike. We will also play a leadership role in engaging all Arctic nations to develop a pan-Arctic marine protection area network.

Incorporating Indigenous science and traditional knowledge into decision-making. Canada and the U.S. are committed to collaborating with Indigenous and Arctic governments, leaders, and communities to more broadly and respectfully include Indigenous science and traditional knowledge into decision making, including in environmental assessments, resource management, and advancing our understanding of climate change and how best to manage its effects.

Building a sustainable Arctic economy. We confirm that for commercial activities in the Arctic - including shipping, fishing, and oil and gas exploration and development - we

will set a world-class standard by basing development decisions and operations on scientific evidence. Further, commercial activities will occur only when the highest safety and environmental standards are met, including national and global climate and environmental goals, and Indigenous rights and agreements. Canada and the U.S. will work to develop this year a shared and science-based standard for considering the life-cycle impacts of commercial activities in the Arctic.

- *Low impact shipping corridors:* We will work together to establish consistent policies for ships operating in the region, taking into account important ecological and cultural areas, vessel traffic patterns, Indigenous and Northern Arctic input, and increased cooperation of our Coast Guards. The two countries will also work together to share assessments of navigation data quality and capacities for supporting safe and low-impact shipping in the Beaufort Sea. In addition, we will determine with Arctic partners how best to address the risks posed by heavy fuel oil use and black carbon emissions from Arctic shipping.
- *Abundant Arctic fish:* The leaders call for a binding international agreement to prevent the opening of unregulated fisheries in the Central Arctic Ocean to preserve living marine resources and promote scientific research in the region. Canada offers to host the next round of negotiations, to continue momentum and build on a precautionary, science-based principle to commercial fishing that both countries have put in place in their Arctic waters.
- *Science-based approach to oil and gas:* If oil and gas development and exploration proceeds, activities must align with science-based standards between the two nations that ensure appropriate preparation for operating in Arctic conditions, including robust and effective well control and emergency response measures.

Supporting strong Arctic communities. We commit to defining new approaches and exchanging best practices to strengthen the resilience of Arctic communities and continuing to support the well-being of Arctic residents, in particular respecting the rights and territory of Indigenous peoples. All Indigenous Peoples in the Arctic are vital to strengthening and supporting U.S. and Canadian sovereignty claims. We commit to working in partnership to implement land claims agreements to realize the social, cultural and economic potential of all Indigenous and Northern communities. With partners, we will develop and share a plan and timeline for deploying innovative renewable energy and efficiency alternatives to diesel and advance community climate change adaptation. We will do this through closer coordination among Indigenous, state, provincial, and territorial governments and the development of innovative options for housing and infrastructure. We also commit to greater action to address the serious challenges of mental wellness, education, Indigenous language, and skill development, particularly among Indigenous youth.

In moving forward, we welcome the upcoming White House Arctic Science Ministerial this fall, which will bring together Science Ministers from nations with Arctic interests, and the twentieth anniversary of the Ottawa Declaration, which established the Arctic Council in 1996. Canada and the U.S. commit to a regular bilateral dialogue to ensure progress towards the realization of these objectives, to continuing their strong cooperation on scientific work and research, and to advancing our shared Arctic leadership model through the Arctic Council.

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 2/11/2021 8:59:05 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: OTAQ Materials [OTAQMaterials@epa.gov]; Charmley, William [charmley.william@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Wysor, Tad [wysor.tad@epa.gov]
Subject: Materials for OAR Briefing tomorrow (2/12) 12:15pm "Light-Duty Vehicles Update"
Attachments: SAFE I reconsideration briefing for Joe 2-11-21 final.pptx; Schedule for LDV Near Term Rule_ OAR 2-12-21.pptx

Dear OAR,

Here's our 2 materials for the 12:15pm briefing tomorrow:

- Schedule for the light-duty near-term (SAFE2 redo) proposed rulemaking
- SAFE 1 Reconsideration

Thanks,
Robin

Message

From: Erick Lutt [elutt@bio.org]
Sent: 3/18/2021 9:09:37 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: BIO Statement for the Record on CLEAN Future hearing
Attachments: 210318 BIO Statment EC CLEAN Future Hearing.pdf

Joe and Alejandra,

For today's House Energy and Commerce hearing on the CLEAN Future Act, BIO submitted the attached statement for the record providing its perspective on the legislation on how to ensure biotechnology and biobased technologies can be a part of the solution to the climate crisis.

Please let me know if you have any questions.

All the best,
Erick

Erick Lutt
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Biotechnology Innovation Organization
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Biotechnology Innovation Organization

March 18, 2021

The Honorable Paul Tonko
Chairman
Subcommittee on Environment
and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tonko, Ranking Member McKinley, Chairman Pallone, Ranking Member McMorris Rodgers, and Members of the Subcommittee:

The Biotechnology Innovation Organization (BIO) is pleased to submit a statement for the record to the United States House of Representatives Committee on Energy and Commerce Subcommittee on Environment and Climate Change hearing entitled, "The CLEAN Future Act: Industrial Climate Policies to Create Jobs and Support Working Communities."

Introduction

BIO[1] represents 1,000 members in a biotech ecosystem with a central mission – to advance public policy that supports a wide range of companies and academic research centers that are working to apply biology and technology in the energy, agriculture, manufacturing, and health sectors to improve the lives of people and the health of the planet. BIO is committed to speaking up for the millions of families around the globe who depend upon our success. We will drive a revolution that aims to cure patients, protect our climate, and nourishes humanity.

Our members use technology to enhance cultivation and food production and produce sustainable biofuels, renewable chemicals, and biobased products, which provide a cost-competitive alternative to petroleum's value chain that also generates added value through economic development, job creation, and environmental and public health. Companies are utilizing biological processes to convert biomass and waste feedstocks into everyday products while creating new markets for agricultural crops, crop residues, and waste streams – in addition to contributing to a circular economy.

[1] https://www.bio.org/

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Overview

BIO welcomes this opportunity to provide input on H.R. 1512, the *Climate Leadership and Environmental Action for Our Nation's (CLEAN) Future Act*.

To tackle the climate crisis, it is crucial to lead with science and U.S. innovation. We must incentivize the adoption of innovative and sustainable technologies and practices and streamline and expedite regulatory pathways for breakthrough technology solutions to reduce carbon in hard to abate sectors. In doing so, the federal government can support pioneering technology breakthroughs that reduce greenhouse gas emissions in manufacturing, transportation, and agricultural supply chains to build a stronger, more resilient, and environmentally sustainable economy.

Federal climate policy should modernize infrastructure and manufacturing capacity to increase availability of biobased products. Climate legislation should seek to increase the use of biobased manufacturing, low-carbon fuels, and sustainable agricultural solutions to promote resilient and sustainable supply chains across economic sectors including translating sustainability to best practices to all bioindustries. If done right, climate legislation will drive adoption of market pull incentives for investment in and use of innovative technologies and products that fight climate change.[2]

BIO applauds the *CLEAN Future Act* including provisions supporting the production and deployment of sustainable fuels. It is critical that the Industrial Sector provisions of H.R. 1512, support and promote the development of biobased manufacturing to reduce emissions, rebuild our national economy and workforce in a forward-looking manner, and bolster our economic independence in a way that facilitates self-sufficiency. Finally, BIO welcomes the inclusion of comprehensive environmental justice provisions.

Transportation Sector

Pathways

BIO is pleased the *CLEAN Future Act* includes Sec. 411 ACCELERATING APPROVAL OF CLEAN FUELS. The U.S. Environmental Protection Agency's (EPA) delays in approving biofuel pathways and facility registrations have led to an erosion of the Renewable Fuel Standard (RFS) as Congress intended. Developing and producing these fuels and attracting investment to sustainable fuel projects has been curtailed because of EPA's actions. This hampers the growth of rural America and stymies the development of the bioeconomy. Bringing these innovative technologies online will be critical to creating a resilient, healthier transportation sector in a post-COVID economic recovery. BIO also supports bipartisan, stand-alone legislation from Senators John Thune (R-SD) and Jeanne Shaheen (D-NH), S. 218[3], to address this issue.

[2] https://www.bio.org/strategic-vision
[3] https://www.congress.gov/bill/117th-congress/senate-bill/218

Beyond the *CLEAN Future Act*, BIO would urge the Committee to use its oversight authority over EPA to ensure the Agency interprets the RFS broadly and accommodate all pathways and approve facility registrations that could fall within the existing statute. Specific areas that would have an impact immediately to accelerate the production of low carbon sustainable fuels are related to biological carbon capture and utilization (CCU), the interpretation and eligibility of "renewable biomass", the use of biointermediates, and life-cycle and tracking methodologies for sustainable fuels from waste agricultural residues such as corn kernel fiber. This would have immediate benefits for reducing greenhouse gas emissions in the transportation sector and agricultural sector by create more demand for waste feedstocks and renewable biomass.

Transparency of Small Refinery Exemptions

BIO applauds the inclusion of Representatives Angie Craig (D-MN) and Dusty Johnson (R-SD) bipartisan *Renewable Fuel Standard Integrity Act,* H.R. 1113[4] in SEC. 413 INFORMATION IN PETITION SUBJECT TO PUBLIC DISCOLUSRE of the *CLEAN Future Act.*

When allowed to work, the RFS has enabled billions of dollars of investment in new technologies that have led to the rapid growth of the renewable fuels industry, the development of new fuel technologies, and the biobased economy. The growth of the biofuels industry has bolstered our rural communities and provided agriculture producers stable commodity markets, benefitting our nation's economic and energy security. Unfortunately, the demand destruction caused by the EPA's drastic expansion of small refinery exemption waivers or small refinery exemptions (SREs) has had a major impact on the industry, costing jobs, stifling investment in innovation, and undermining efforts to reduce greenhouse gas emissions in the transportation sector.

Providing greater transparency, predictability, and accountability to EPA's SRE process as proposed in H.R. 1512, will ensure success of the sustainable fuels industry, enable agriculture to reduce emissions, and bring even greater job growth to rural America.

Biofuel Infrastructure

BIO appreciates the Committee's interest in expanding U.S. electric vehicle infrastructure and access. However, we urge the Committee to recognize biofuels already provide a strong and immediate solution to reducing emissions in transportation. It is critical the Committee understands that these solutions are available today, and do not require a mass turnover in vehicles. Reducing carbon emissions now is much like compounding interest. Just in the way that a dollar saved today is better than a dollar saved tomorrow, limiting carbon emissions today is far more valuable than limiting the same or a greater amount emission later.

[4] https://www.congress.gov/bill/117th-congress/house-bill/1113

BIO urges the Committee to include language in the *CLEAN Future Act* to invest and develop biofuels infrastructure and access. This includes the development of biorefineries and deployment of advanced biofuels as well as investments in infrastructure to help consumers access low carbon fuels.

Bolstering the U.S. Department of Energy (DOE) Energy Efficiency and Renewable Energy (EERE) Bioenergy Technology Office (BETO) will help fund vital research and development of technologies to convert our nation's biomass resources into clean, renewable fuels, as well as chemicals and industrial products. BETO Systems Development and Integration (SDI) program is working to establish first-of-a-kind integrated biorefineries, to produce advanced biofuels, such as sustainable aviation fuels, that are capable of efficiently converting a broad range of biomass feedstocks into commercially viable biofuels, biopower, and other bioproducts. While the U.S. Department of Agriculture's (USDA) Higher Blends Infrastructure Incentive Program (HBIIP) could provide a model for developing the needed infrastructure to deploy low carbon fuels.

Additional Provisions

BIO urges the committee to recognize that because of biotech innovations, the production of biofuels is becoming more efficient and environmentally sustainable. Unfortunately, EPA's current greenhouse gas modeling for ethanol and biodiesel do not reflect these improvements. Including Senators Thune and Amy Klobuchar's (D-MN) bipartisan *Adopt GREET Act,* S. 193[5] in H.R. 1512 will ensure these benefits are recognized.

BIO also encourages the Committee to further examine the development of a federal Low Carbon Fuel Standard (LCFS) that is technology and feedstock neutral and builds on the success of the RFS to ensure agriculture and low carbon, sustainable fuels are part of future solutions to significantly reduce emissions in transportation.

Industry

Federal Buy Clean Program

BIO is pleased that the *CLEAN Future Act* establishes a federal "Buy Clean" standard for the use of federal funds to incentivize more sustainable practices. These standards, we hope will promote the procurement of building materials and products that are manufactured through low greenhouse gases (GHGs) intensity processes.

While we appreciate the intent, we encourage the Committee to recognize that similar programs have existed for some time now, such as the USDA BioPreferred Mandatory Federal Purchasing program and the EPA's Environmentally Preferable

[5] https://www.congress.gov/bill/117th-congress/senate-bill/193

Purchasing Program but without agency mandated key performance indicators or methodologies to hold them accountable the intent alone has failed to create the necessary market pulls for these more sustainable products. In other words, there are no consequences fiscally or otherwise if the federal funds are not being utilized to procure low carbon alternative products. We urge the Committee to put in place mechanisms to hold parties accountable that fail to do the necessary due diligence. BIO also recommends the scope of the "Buy Clean" standard can be expanded to other areas of government procurement beyond the building and construction sector.

BIO is also heartened to see the Committee recognize that both biogenic carbon-based products as well as carbon sequestered products can help to achieve lower GHGs manufactured goods. The transformation of biomass (and its embodied "biogenic" carbon[6]) into products represents in effect a removal of CO_2, via its continued storage in the product over a period. Biobased products can thus contribute to reduce the CO_2 level in the atmosphere and address global warming. For GHG accounting purposes, biogenic carbon embodied in a product should be considered as a CO_2 reduction or a "negative emission". Therefore, it is essential that biogenic carbon flows are assessed in a correct, transparent, and consistent way in Life Cycle Assessments (LCA) and product carbon footprint (PCF) tools. The lack of adequate assessment would hinder the introduction of innovative solutions to climate change rather than support it. We are therefore supportive of establishing a National Environmental Product Declaration (EPD) database to help verify the embodied carbon of materials and products acquired with federal funds.

Clean Energy Manufacturing Grant Program

BIO is pleased to see the Committee recognizes the need for the establishment of a program to award grants to existing manufacturers for projects to reequip, expand, or establish a facility. Often developers, especially those in the bioenergy and biotech sectors come face to face with the valley of death in their innovation pipeline from proof of concept to scale up. While venture capitalist and government funding are prevalent for new concepts and stage one projects, the funding often dries up post pilot phase where scale up challenges and retrofitting capital investments are needed for commercial viability. Ultimately, the valley of death reflects the perceived imbalance of risk and reward for an investment at this stage as well as the resulting difficulty for a biotech company in raising capital during this time. This is exactly where there needs to be governmental intervention strategy to enable fledgling innovators crossover into the commercially successful threshold. For example, while EERE and the Advanced Research Project Agency–Energy (ARPA-E) are admirable grant programs, but much of their focus is on projects that are in large part early – stage.

[6] Biogenic carbon: carbon which is contained in biomass
Biomass: material of biological origin excluding material embedded in geological formations or transformed to fossilized material.

Support Platform Technologies to Revolutionize Energy and Industry

Innovations like synthetic biology, gene editing, cell culturing, and fermentation hold tremendous potential to solve urgent challenges throughout industrial and manufacturing supply chains, which will only be compounded by climate change. These platform technologies can revolutionize manufacturing by optimizing processes for producing sustainable chemicals, biobased products, and biofuels. [7] Producers and developers will need access to these innovative technologies to increase production while cutting down on their environmental footprint. Enabling regulatory systems to keep pace with advancements in biology is essential if society is expected to fully benefit from food, health, and industrial products developed using the very latest cutting-edge platform technologies.

Furthermore, domestic regulatory pathways must provide for more expedient approval timelines to ensure the economics of new product development are not a deterrent to bringing new products to market. In the absence of a predictable and well-designed regulatory product approval system developers may choose to invest in more mature markets with better approval timelines. Investments by the government in next generation of biotechnologies and genomics will also be critical to meet the challenge of climate change.

Waste Reduction

BIO is supportive of the Committee's goal of reducing plastic waste and in addressing related climate change impacts. We applaud the committee for the inclusion of zero waste and recycling initiatives in the bill and believe these are a much-needed positive step toward mitigating climate change. With the world population projected to increase to 10 billion by 2050, meaningful action is required to fundamentally alter the way in which we manufacture, use, reuse, and recycle plastics.

We, however, would like to point out that not all plastics have the same environmental footprint and there needs to be a distinction in both policy and practice to appreciate these very distinct physical and environmental properties. As BIO highlighted last year in a statement submitted to the Committee's hearing, "Reduce, Reuse, Recycle, Reform: Addressing America's Plastic Waste Crisis," biotechnology is enabling the production of sustainable alternatives to petroleum-based plastic.[8] The innovations and technologies emerging from the biotechnology sector, such as alternative biobased/biodegradable/biocompostable plastics, and carbon recycling, are central to enabling societies and economies to restructure, adapt to a changed environment and mitigate against future impact on the planet. Importantly, the biomanufacturing and synthetic biology sector is developing new techniques which are allowing other foundational industries and sectors to improve their environmental performance and overall competitiveness.

[7] https://www.bio.org/blogs/synthetic-biology-sustain-agriculture-and-transform-food-system
[8] https://www.bio.org/letters-testimony-comments/bio-testifies-biobased-products-address-plastic-waste

The National Bioeconomy Strategy[9] of the United States rightly raise concerns about the long-term effects of plastics in the environment and calls for the increased use of biobased renewable and sustainable materials as a means of addressing these issues. Accordingly, to achieve this objective BIO is supportive of developing a more holistic regulatory framework which includes creating effective standards and definitions specific to advanced biotechnologies and bioproducts. Biobased plastics standards, including standards for compostable plastic products, must be addressed as part of an overall North American plastic waste agenda. The development of guidelines around labeling for recyclables and compostables, require standardization in cohort with innovative technology manufacturers. Its success requires coordinated and adopted standardized terminology, government regulations and policy incentives to provide the impetus for consumers and manufacturers to shift towards the adoption of alternative plastics as a practical solution to addressing the environmental performance issues.

We urge the Committee to recognize that putting in place a pause on permitting for new and expanded plastic production facilities that does not account for the strides the biobased and plant-based alternatives sector is making can decimate a burgeoning industry especially considering a post COVID world where green jobs have the potential to truly transform how we address recovery.

Environmental Justice

BIO applauds the Committee's efforts to address environmental justice. As part of BIO's BIOEquality Agenda[10] broadening access to biotechnology advances to clean the environment and elevate community health is critical to health equity in disadvantaged communities.

Harmful tailpipe emissions, including particulate matter (PM) from the transportation sector disproportionately affect areas comprised of minority populations. For example, according to a study by the Union of Concerned Scientists (UCS), African Americans and Latinos breathe in about 40 percent more particulate matter from cars, trucks, and buses than white Californians[11]. Another UCS study found Northeast communities of color breath 66 percent more air pollution from vehicles[12].

According to the National Bureau of Economic Research, the United States saw fine particulate pollution increase 5.5 percent between 2016 and 2018. According to the American Lung Association, State of the Air report for 2019, more than four in ten Americans live in counties that have unhealthy levels of ozone pollution or particulate matter.[13] Prior to COVID-19, the World Health Organization[14] found that

[9] https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/national_bioeconomy_blueprint_april_2012.pdf)
[10] https://www.bio.org/bioequality-agenda
[11] https://www.ucsusa.org/resources/inequitable-exposure-air-pollution-vehicles-california-2019
[12] https://www.ucsusa.org/about/news/communities-color-breathe-66-more-air-pollution-vehicles
[13] http://www.stateoftheair.org/key-findings/
[14] https://www.who.int/health-topics/air-pollution#tab=tab_1

4.2 million deaths[15] every year occur because of exposure to ambient air pollution. Since then, numerous studies have found that long-term exposure to levels of tiny particulate matter were linked to a significant increase in the mortality rate for COVID-19[16].

Biobased technologies can reduce pollution in the transportation and manufacturing sector, improving environmental and human health. As BIO stated in its comments to the EPA's Scientific Advisory Board (SAB) *Review of COVID-19 Pandemic Scientific and Technical Issues to Inform EPA's Research Actives*[17], "our member companies offer several solutions that can not only help combat this pandemic, but also lessen the impact of a future pandemic by helping to establish a resilient, sustainable bioeconomy." As the Committee seeks to tackle the impact poor air quality has on disadvantaged communities, BIO encourages it to support the deployment of biotechnology and biobased technologies to reduce pollution, rebuild the workforce, and enhance human health through improved air quality.

Conclusion

BIO is committed to working with the Committee, Congress, and the Administration to address the climate crisis. We urge you to support policy that advances pioneering technology breakthroughs. With science we can return our Nation and the world to health and prosperity by taking bold and drastic action to address the climate crisis.

[15] https://www.who.int/gho/phe/outdoor_air_pollution/burden/en/
[16] https://www.newscientist.com/article/2241778-are-you-more-likely-to-die-of-covid-19-if-you-live-in-a-polluted-area/
[17] https://yosemite.epa.gov/sab/sabproduct.nsf//0/2996BA363B41C2598525854C0048EA69?OpenDocument

Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 3/2/2021 7:59:52 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Transition 2021: Senate confirms Raimondo to lead Commerce Department

Transition 2021: Senate confirms Raimondo to lead Commerce Department

By Gavin Bade, Anna Kambhampaty

03/02/2021 02:58 PM EST

The Senate on Tuesday voted overwhelmingly in favor of confirming Gina Raimondo as secretary of Commerce, tasking the former Rhode Island governor with a key role in reviewing the Trump administration's trade policies.

Raimondo's new position will place her at the head of a sprawling department whose duties include forecasting the weather, managing ocean fisheries and handling trade cases. The job will give her an influential voice in how to handle steel and aluminum duties on global trading partners and restrictions on Chinese telecom and defense firms, as well a role in executing the White House's plans to fight climate change.

Senate vote: The Senate confirmed Raimondo in a 84-15 vote, overcoming opposition from Republicans who accused her of being soft on China.

The criticism stemmed from her confirmation hearing, when Raimondo initially declined to commit to keeping Chinese telecommunications firm Huawei on the Commerce Department's Entity List, a blacklist that prohibits U.S. firms from doing business with hostile foreign companies.

Sen. Ted Cruz (R-Texas) subsequently put a hold on her nomination, forcing the Senate to overrule him in a procedural vote Monday evening. In floor comments on Tuesday before her confirmation, he again bashed her nomination as "part of a pattern" of the Biden administration easing pressure on China.

"She wouldn't even commit to keeping Huawei on the list, which is unabashedly an espionage agency of the Chinese Communist Party," Cruz said.

But most senators dismissed those concerns, placated by Raimondo's subsequent promise to keep Huawei and other firms on the list for now. Democrats touted her private sector experience and workforce training programs ahead of her confirmation vote.

Business-friendly Democrat: Raimondo will come to her post fresh off six years as Rhode Island's first female governor, where she rolled back business regulations and overhauled the state's pension plan. Before that, she served as the state's treasurer and worked at a venture capital firm backed by Bain Capital. A graduate of Harvard and Yale Law, she previously clerked at the U.S. District Court for the Southern District of New York.

Trade disputes raging: Raimondo will have to arbitrate a number of international trade disputes initiated by her predecessor, Wilbur Ross.

Ross expanded the department's role in trade, spearheading the administration's effort to impose tariffs on global imports of steel and aluminum with a seldom-used national security provision in U.S. law.

For the first time, he also exercised the agency's authority to set tariffs on nations it designates as currency manipulators. And he was responsible for adding Huawei, as well as several Chinese military and surveillance firms, to the Entity List.

Climate change: The Commerce Department, home to the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology, could also play a major role in the Biden administration's climate change plans. As governor of a coastal state, Raimondo signed an executive order to move Rhode Island toward a 100 percent renewable electricity future by 2030 and worked with a local company to complete the first offshore wind farm in the U.S.

Policy reviews coming: Raimondo has given little indication how she will handle former President Donald Trump's tariffs or the numerous exclusions Commerce granted to U.S. steel and aluminum importers.

Raimondo promised a thorough review of those Trump policies in follow-up comments to senators last month, keeping with the Biden administration's pledge to hold off lifting any duties despite pleas from major segments of U.S. industry harmed by the tariffs.

Those reviews will involve not just Commerce, but also the U.S. Trade Representative, Treasury secretary and White House national security and economic teams.

Click here for more Pro 2021 Transition coverage, and be sure to sign up for the following topics on your settings page to ensure you receive all the transition content you need: Transitions and Departures, White House, Presidential Elections.

To view online:
https://subscriber.politicopro.com/financial-services/article/2021/03/transition-2021-senate-confirms-raimondo-to-lead-commerce-department-2037972

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USA

Message

From: Senter, Stephen [Senter.Stephen@epa.gov]
Sent: 3/17/2021 4:47:42 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: Koerber, Mike [Koerber.Mike@epa.gov]; Brown, Annette [Brown.Annette@epa.gov]
Subject: BRIEFING MATERIALS: March 18 Carbonell Briefing - Determinations of Attainment by the Attainment Date and Reclassifications for the 2008 and 2015 Ozone National Ambient Air Quality Standards
Attachments: 08+15_O3_determinations_overview_Carbonell_3-18-21.docx

Please see the attached for the following briefing:

Thursday, March 18 @ 11 AM - Determinations of Attainment by the Attainment Date and Reclassifications for the 2008 and 2015 Ozone National Ambient Air Quality Standards

Please let me know if you have any questions.

Message

From: Newberg, Cindy [Newberg.Cindy@epa.gov]
Sent: 2/26/2021 1:29:20 AM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: Hall-Jordan, Luke [Hall-Jordan.Luke@epa.gov]
Subject: AIM Act - General Discussion, 1 PM
Attachments: Allocation rule-background- feb 26 mtg.docx

Apologies for sending this so late, attached is background for the 1pm discussion on the AIM Act with Cynthia Giles.

Cindy Newberg
Director, Stratospheric Protection Division
US Environmental Protection Agency
+1 202 343 9729

Message

From: Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Sent: 3/4/2021 5:02:40 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
Subject: Background for Ceres Meeting 3/5/21
Attachments: Background for Ceres Meeting on 03 05 2021.docx

Attached is background information ahead of the Ceres mtg on the calendar for 4 pm, 3/5/21. Thanks.

Message

From: Agri-Pulse Daybreak [sara@agri-pulse.com]
Sent: 3/2/2021 9:59:32 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: Agri-Pulse Daybreak March 2: Vilsack outlines policy priorities * Crop insurance guarantees up sharply * USTR says it won't repeat China trade war

Agri-Pulse Daybreak March 2: Vilsack outlines policy priorities * Crop insurance guarantees up sharply * USTR says it won't repeat China trade war

Your Agri-Pulse Daybreak for March 2, 2021

Sponsored by Watkinson Miller and Dairy Management, Inc.

Agri-Pulse Daybreak

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Equity, fairness top priorities for Vilsack

Agriculture Secretary Tom Vilsack is laying out some new measures he's taking to address equity and fairness in farm payments and in markets.

Vilsack is forming an equity commission that will, among other things, investigate what he calls the "cumulative effect" of past discrimination. Vilsack told the National Farmers Union he wants to "root out" any vestiges of systemic discrimination in USDA programs. What's obviously not clear yet is what equity looks like in farm programs and what policy changes he might pursue.

Take note: Vilsack also announced that he's brought in a progressive policy analyst as his adviser on market fairness. Andy Green is a lawyer and former aide to Sen. Jeff Merkley who joined the Center for American Progress in 2015. Green has co-authored a number of reports with far-reaching recommendations on market reforms.

On climate: Vilsack emphasized that ag carbon markets must primarily benefit farmers, not investors. And he told NFU that agriculture offers a chance for the Biden administration to get some "early wins" in reducing greenhouse gas emissions.

For more on those actions and Vilsack's remarks to NFU, go to Agri-Pulse.com

Crop insurance guarantees up sharply

The commodity prices that USDA bases crop insurance coverage on will be up sharply this year as a result of the surge in exports and vastly improved markets that farmers are seeing. A higher

spring price increases the farmer's revenue guarantee and borrowing capacity.

The spring price for corn as determined by USDA's Risk Management Agency will be $4.58 per bushel, the highest spring price since 2014 and 18% more than last year, according to an analysis by the American Farm Bureau Federation. The spring prices for soybeans and cotton are the highest they have been since 2013.

Biden's USTR vows not to repeat China trade war

The Office of the U.S. Trade Representative is vowing not to take the same unilateral action of hitting China with tariffs the way the agency did during the Trump administration. Those tariffs resulted in retaliatory duties that hit American farmers hard and forced the U.S. to compensate by distributing $28 billion in mostly direct payments as part of the Market Facilitation Program.

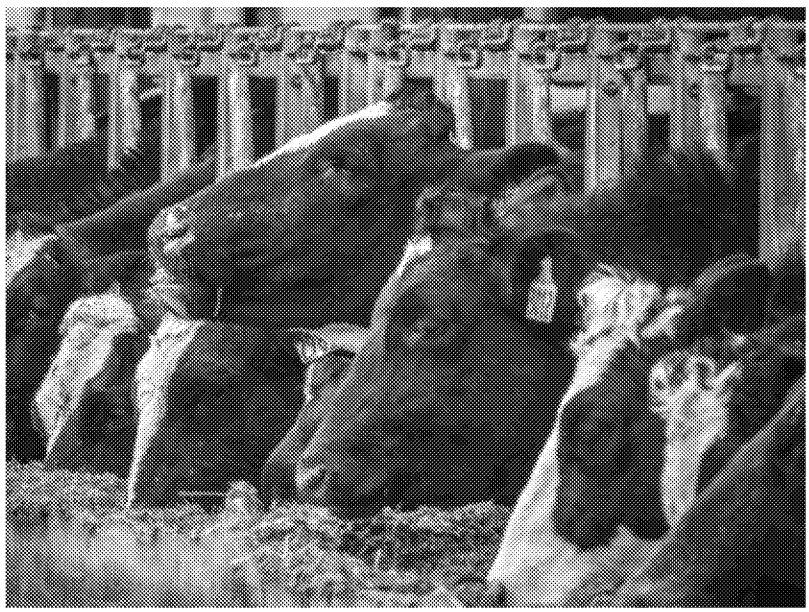
"America's agricultural communities have been burdened in recent years by erratic trade actions that were taken without a broader strategy," USTR said in its 2021 Trade Agenda and 2020 Annual Report that was released Monday. "The Biden Administration is committed to standing up for American farmers, ranchers, food manufacturers, and fishers by pursuing smarter trade policies that are inclusive and work for all producers."

Brazil soy production forecast raised

Brazil's soybean harvest is quickening and the county's farmers will be producing even more than expected this year, according to the consultancy firm AgRural, which is based in the southern state of Parana. The company has raised its production forecast to 133 million metric tons, up from 131.7 million, now that the harvest is a quarter of the way completed.

Good harvesting weather in some areas of Brazil allowed many farmers to get out into the fields last week, and by Thursday 25% of the country's harvest was complete – a jump from 15% the previous week.

Still, Brazil's pace this year is the slowest it has been in 10 years, says AgRural. Brazil's harvest was 40% complete at this time last year.



DMC payments trigger for January

Producers who selected Tier 1 and 2 levels of coverage for the Dairy Margin Coverage program will receive payments for January.

The actual national average margin for January was $7.14 per hundredweight. As a result, dairy operations that selected Tier 1 margin coverage levels at $9.50, $9, $8.50, $8, $7.50, and Tier 2 margin coverage levels at $8 and $7.50, will get a payment, according to USDA.

California dairy producer Steve Maddox is pleased to see the program working as intended.

"It's a risk management type of thing rather than a support program, (and) this margin insurance seems to work," he told *Agri-Pulse*.

DMC payments are triggered when the difference between the national all-milk price and the national average feed cost (the margin), drops below the producer selected margin trigger. Tier 1 coverage ranges from $4 to $9.50, and Tier 2 ranges from $4 to $8.

USDA requests comment on ReConnect final rule

USDA's Rural Utilities Service is seeking input on a final

rule establishing a program to build out high-speed internet access across the country.

The final rule establishing USDA's ReConnect program was filed in the Federal Register Friday. Introduced as a pilot program in 2018, the Rural eConnectivity Program has provided loans, grants, and loan/grant combinations to deploy broadband in rural areas that don't have a minimum of 10 megabits per second download and 1 megabit per second upload speeds.

Comments are due April 27.

HHS looking for information on rural telehealth successes, challenges

The federal government is seeking scientific information to help identify and synthesize available evidence on rural telehealth.

The Agency for Healthcare Research and Quality in the Department of Health and Human Services is asking for published and unpublished research to help support the ongoing expansion of rural telehealth and the conversion of telehealth-friendly policies to permanent programs.

The agency has posed a series of questions concerning the impact of provider-to-provider telehealth, which it has defined as "any telecommunications-facilitated interaction among, or support for, healthcare professionals designed to improve access, quality

of care, or health outcomes for rural patients and populations."

The agency has asked for information by March 30.

He said it: "Things have changed. It's a different department. It's a different time, and frankly, I'm a different person." – Ag Secretary Tom Vilsack in outlining his policy priorities to the National Farmers Union Monday.

Ben Nuelle, Bill Tomson and Steve Davies contributed to this report.

Questions? Tips? Contact Philip Brasher at philip@agri-pulse.com

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Message

From: Grundler, Christopher [grundler.christopher@epa.gov]
Sent: 2/11/2021 3:47:06 AM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Harvey, Reid [Harvey.Reid@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: Re: draft Revised CSAPR Update Rule (Preamble) for Your Review

Thx for the quick review, and I apologize for the compressed timetable. We will let you know if we have any questions about your comments.

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
(202) 343-9140 (Office)
(734) 645-5221 (Mobile)

On Feb 10, 2021, at 10:41 PM, Carbonell, Tomas <Carbonell.Tomas@epa.gov> wrote:

<!--[if lte mso 15 || CheckWebRef]-->

Carbonell, Tomas has shared a OneDrive for Business file with you. To view it, click the link below.

<image00001.png> Draft for OAR-IO review_Final Revised CSAPR Update_preamble_02.08.21 Comments.docx

<!--[endif]-->
Dear Chris,

Thanks so much to you and the dedicated team who worked on this – I thought the preamble looked great. I've offered just a couple of minor comments for your consideration. I would happy to discuss tomorrow if that would be helpful. Best,

Tomás

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 8, 2021 12:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: draft Revised CSAPR Update Rule (Preamble) for Your Review

Joe and Tomás:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0189; FRL-10019-83-Region 6]

Air Plan Approval; Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Withdrawal of Federal Implementation Plan Provisions for the Domtar Ashdown Mill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to withdraw the remaining portion of a Federal Implementation Plan (FIP) for Arkansas that was published in the ***Federal Register*** on September 27, 2016, which addressed certain regional haze obligations for the first implementation period for the Domtar Ashdown Mill. Specifically, this remaining portion of the FIP we are withdrawing contains best available retrofit technology (BART) requirements for sulfur dioxide (SO_2) and nitrogen oxide (NO_X) for Domtar Ashdown Mill Power Boiler No. 1; and SO_2, NO_X, and particulate matter (PM) BART requirements for Power Boiler No. 2. These portions of the FIP are being replaced by a revision to the Arkansas State Implementation Plan (SIP) containing SO_2, NO_X, and PM_{10} BART alternative emission limitations that we are taking final action to approve in a separate rulemaking that is also being published in this ***Federal Register***.

DATES: This final rule will be effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R06-OAR-2015-0189. All documents in the docket are listed at the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102.

FOR FURTHER INFORMATION CONTACT: James E. Grady, Air and Radiation Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, telephone (214) 665-6745; e-mail address *grady.james@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" mean "the EPA."

Table of Contents

I. Background
II. Final Action
III. Responses to Comments
IV. Statutory and Executive Order Reviews

I. Background

Arkansas submitted a SIP revision on September 9, 2008, to address the requirements of the first regional haze implementation period. On August 3, 2010, Arkansas submitted a SIP revision with mostly non-substantive revisions to Arkansas Pollution Control and Ecology

Commission (APCEC) Regulation 19, Chapter 15.[1] On September 27, 2011, the State submitted supplemental information to clarify several aspects of the September 9, 2008 submittal. Hereafter we refer to these regional haze submittals collectively as the "2008 Arkansas Regional Haze SIP." On March 12, 2012, we partially approved and partially disapproved the 2008 Arkansas Regional Haze SIP.[2] On September 27, 2016, in accordance with section 110(c)(1) of the CAA, we promulgated a FIP (the Arkansas Regional Haze FIP) addressing the disapproved portions of the 2008 Arkansas Regional Haze SIP.[3] Among other things, the FIP established SO_2, nitrogen oxide (NO_X), and PM emission limits under the BART requirements for nine units at six facilities: Arkansas Electric Cooperative Corporation (AECC) Bailey Plant Unit 1; AECC McClellan Plant Unit 1; the American Electric Power/Southwestern Electric Power Company (AEP/SWEPCO) Flint Creek Plant Boiler No. 1; Entergy Arkansas, Inc. (Entergy) Lake Catherine Plant Unit 4; Entergy White Bluff Plant Units 1 and 2; Entergy White Bluff Auxiliary Boiler; and the Domtar Ashdown Mill Power Boilers No. 1 and 2. The FIP also established SO_2 and NO_X emission limits under the reasonable progress requirements for Entergy Independence Units 1 and 2.

Following the issuance of the Arkansas Regional Haze FIP, the State of Arkansas and several industry parties filed petitions for reconsideration and a motion for an administrative stay of the final rule.[4] On April 14, 2017, we announced our decision to reconsider several elements

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[1] The September 9, 2008 SIP submittal included APCEC Regulation 19, Chapter 15, which is the state regulation that identified the BART-eligible and subject-to-BART sources in Arkansas and established BART emission limits for subject-to-BART sources. The August 3, 2010 SIP revision did not revise Arkansas' list of BART-eligible and subject-to-BART sources or revise any of the BART requirements for affected sources. Instead, it included mostly non-substantive revisions to the state regulation.

[2] 77 FR 14604.

[3] 81 FR 66332; *see also* 81 FR 68319 (October 4, 2016) (correction).

[4] See the docket associated with this proposed rulemaking for a copy of the petitions for reconsideration and administrative stay submitted by the State of Arkansas; Entergy Arkansas Inc., Entergy Mississippi Inc., and Entergy Power LLC (collectively "Entergy"); AECC; and the Energy and Environmental Alliance of Arkansas (EEAA).

of the FIP, as follows: appropriate compliance dates for the NO_X emission limits for Flint Creek Boiler No. 1, White Bluff Units 1 and 2, and Independence Units 1 and 2; the low-load NO_X emission limits applicable to White Bluff Units 1 and 2 and Independence Units 1 and 2 during periods of operation at less than fifty percent of the units' maximum heat input rating; the SO_2 emission limits for White Bluff Units 1 and 2; and the compliance dates for the SO_2 emission limits for Independence Units 1 and 2.[5]

EPA also published a notice in the ***Federal Register*** on April 25, 2017, which administratively stayed the effectiveness of the NO_X compliance dates in the FIP for the Flint Creek, White Bluff, and Independence units, as well as the compliance dates for the SO_2 emission limits for the White Bluff and Independence units for a period of ninety days.[6] On July 13, 2017, the EPA published a notice proposing to extend the NO_X compliance dates for Flint Creek Boiler No. 1, White Bluff Units 1 and 2, and Independence Units 1 and 2, by 21 months, to January 27, 2020.[7] However, EPA did not take final action on the July 13, 2017 proposed rule because on July 12, 2017, Arkansas submitted a proposed SIP revision with a request for parallel processing (Arkansas Regional Haze NO_X SIP revision or Arkansas NO_X SIP revision). The State's proposed revision addressed the NO_X BART requirements for Bailey Unit 1, McClellan Unit 1, Flint Creek Boiler No. 1, Lake Catherine Unit 4, White Bluff Units 1 and 2, and White Bluff Auxiliary Boiler, as well as the reasonable progress requirements with respect to NO_X. We processed this proposed SIP revision in parallel with the state's SIP approval process and, in a proposed rule published in the ***Federal Register*** on September 11, 2017, we proposed approval

[5] Letter from E. Scott Pruitt, Administrator, EPA, to Nicholas Jacob Bronni and Jamie Leigh Ewing, Arkansas Attorney General's Office (April 14, 2017). A copy of this letter is included in the docket no. EPA-R06-OAR-2015-0189-0240 at *https://www.regulations.gov*.
[6] 82 FR 18994.
[7] 82 FR 32284.

of the Arkansas Regional Haze NO_X SIP revision and withdrawal of the corresponding parts of the Arkansas Regional Haze FIP.[8] On October 31, 2017, we received Arkansas' final Regional Haze NO_X SIP revision addressing NO_X BART for EGUs and the reasonable progress requirements with respect to NO_X for the first implementation period. On February 12, 2018, we finalized our approval of the Arkansas Regional Haze NO_X SIP revision and our withdrawal of the corresponding parts of the FIP.[9]

On August 8, 2018, Arkansas submitted another SIP revision (Arkansas Regional Haze SO_2 and PM SIP revision or Phase II SIP revision) addressing all remaining disapproved parts of the 2008 Regional Haze SIP, with the exception of the BART and associated long-term strategy requirements for the Domtar Ashdown Mill Power Boilers No. 1 and 2. In a proposed rule published in the ***Federal Register*** on November 30, 2018, we proposed approval of a portion of the SIP revision and we also proposed to withdraw the parts of the FIP corresponding to our proposed approvals.[10] The Phase II SIP revision included a discussion of Arkansas' interstate visibility transport requirements, and we stated in our proposed rule that we intended to propose action on this portion of the SIP revision in a future proposed rulemaking. On September 27, 2019, we took final action to approve a portion of the Arkansas Regional Haze SO_2 and PM SIP revision and to withdraw the corresponding parts of the FIP.[11]

On August 13, 2019, Arkansas submitted the Arkansas Regional Haze Phase III SIP (Phase III SIP revision). This SIP revision contains a BART alternative to address BART and the associated long-term strategy requirements for two subject-to-BART sources (Power Boilers No.

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[8] 82 FR 42627.
[9] 83 FR 5927 and 83 FR 5915 (February 12, 2018).
[10] 83 FR 62204 (November 30, 2018).
[11] 84 FR 51033 and 84 FR 51056 (Sept. 27, 2019).

1 and 2) at the Domtar Ashdown Mill located in Ashdown, Arkansas. The BART alternative addresses SO_2, PM, and NO_X BART for Power Boilers No. 1 and 2. On March 16, 2020, we proposed to approve the Phase III SIP revision.[12] Our proposed rule included proposed approval of the BART alternative for SO_2, PM, and NO_X at Power Boilers No. 1 and 2 and elements that relate to the BART requirements at this facility; proposed approval of Arkansas' request to withdraw from the approved SIP the previously approved PM_{10} BART limit for Power Boiler No. 1; and proposed withdrawal of the remaining portion of the Arkansas FIP, which consists of provisions addressing the regional haze requirements for the Domtar Ashdown Mill. The EPA also proposed to approve the portions of the August 8, 2018 Arkansas Regional Haze Phase II SIP revision and the October 4, 2019 Arkansas 2015 Ozone (O_3) NAAQS Interstate Transport SIP revision addressing the visibility transport provisions required under CAA section 110(a)(2)(D)(i)(II) for the following NAAQS: the 2006 24-hour $PM_{2.5}$ NAAQS; the 2012 annual $PM_{2.5}$ NAAQS; the 2008 and 2015 eight-hour O_3 NAAQS; the 2010 one-hour NO_2 NAAQS; and the 2010 one-hour SO_2 NAAQS. In a final action being published separately in this ***Federal Register***, we are taking final action to approve the Arkansas Regional Phase III SIP revision and the visibility transport portions of the Arkansas Regional Haze Phase II SIP revision and the Arkansas 2015 O_3 NAAQS Interstate Transport SIP revision.

The background for this final rule and the separate final action also being published today that approves the Arkansas Regional Haze Phase III SIP revision and portions of the Arkansas Regional Haze Phase II SIP revision and the Arkansas 2015 O_3 NAAQS Interstate Transport SIP revision is also discussed in detail in our March 16, 2020 proposed approval.[13] The comment period was open for thirty days and closed on April 15, 2020. We received a total of two sets of

[12] 85 FR 14847 (March 16, 2020).
[13] 85 FR 14847.

public comments concerning our proposed action. The comments are included in the publicly posted docket associated with the rulemaking (EPA-R06-OAR-2015-0189), available at *https://www.regulations.gov*.

II. Final Action

We are withdrawing the remaining portion of the Arkansas Regional Haze FIP that we promulgated on September 27, 2016, found at 40 CFR 52.173(c). Specifically, we are withdrawing provisions addressing applicability and definitions of the FIP; SO_2 and NO_X emission limits for Power Boiler No. 1; SO_2, NO_X, and PM emission limits for Power Boiler No. 2; BART compliance dates; compliance determination requirements and reporting and recordkeeping requirements associated with the BART emission limits; and provisions addressing equipment operations and enforcement. We are removing these SO_2, NO_X, and PM emission limitations and associated requirements for Power Boilers No. 1 and 2 found at 40 CFR 52.173(c), and as of the effective date of this final rule these requirements will no longer apply to these units. Since we are withdrawing the text from paragraph (c) under 40 CFR 52.173, we are also reserving paragraph (c) so as to not disturb the numbering of existing paragraphs (d) through (g) under 40 CFR 52.173.

As explained in our March 16, 2020 proposal,[14] this action is based on our separate action being published in this ***Federal Register*** approving the Arkansas Regional Haze Phase III SIP revision submitted to us on August 13, 2019. In that separate action, EPA is making the determination that the Arkansas Regional Haze Phase III SIP revision is approvable because the plan's provisions meet the applicable requirements of the CAA and EPA implementing regulations. EPA is finalizing this action under section 110 and part C of the Act.

[14] 85 FR 14847.

III. Response to Comments

We received two comment letters concerning our proposed action, which included our proposed approval of the Phase III SIP revision, proposed approval of the visibility transport portions of the Arkansas Regional Haze Phase II SIP revision and the Arkansas 2015 O_3 NAAQS Interstate Transport SIP revision, and proposed withdrawal of the remaining FIP provisions. EPA did not receive any comments specifically addressing our proposed withdrawal of the remaining FIP provisions; rather, the comments addressed EPA's proposed approval of the SIP provisions that would replace the FIP. Therefore, we have responded to all relevant comments in response to our proposed action in the separate, final notice being published in this ***Federal Register*** that approves the Arkansas Regional Haze Phase III SIP revision.[15]

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/lawsregulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review 13563

This action is exempt from review by the Office of Management and Budget (OMB) because it will withdraw a FIP containing source-specific SO_2, NO_X, and PM emission limits for two individually identified units at one facility in Arkansas and is therefore not a rule of general applicability and not a significant regulatory action.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the PRA. Burden is defined at 5 CFR 1320.3(b). This final rule withdraws a FIP containing source-

[15] Please see Docket No. EPA–R06–OAR–2015–0189 at *https://www.regulations.gov*.

specific SO_2, NO_X, and PM emission limits for two individually identified units at one facility in Arkansas.

C. Regulatory Flexibility Act

I certify that this final action will not have a significant economic impact on a substantial number of small entities under the RFA. This final action will not impose any requirements on small entities. This final action withdraws a FIP containing source-specific SO_2, NO_X, and PM emission limits that apply to two individually identified units at one facility in Arkansas.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the FIP we are withdrawing does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. This final action withdraws a FIP that applies to two individually identified units at one facility in

Arkansas. There are no Indian reservation lands in Arkansas. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks[16] applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5-501 of the EO has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

[16] 62 FR 19885 (Apr. 23, 1997).

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does **not** have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

K. Determination Under Section 307(d)

Pursuant to CAA section 307(d)(1)(B), this action is subject to the requirements of CAA section 307(d), as it revises a FIP under CAA section 110(c).

L. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicably. EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability that only affects one individually identified facility in Arkansas.

M. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].** Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best available retrofit technology, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Regional haze, Reporting and recordkeeping requirements, Sulfur Dioxide, Visibility.

Jane Nishida,
Acting Administrator.

Title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 52–APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In § 52.173, delete the existing text under paragraph (c) and reserve paragraph (c) to read as follows:

§ 52.173 Visibility protection.

* * * * *

(c) [Reserved]

* * * * *

Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 2/24/2021 1:34:28 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: U.S. to issue new Paris climate pact pledge ahead of April meeting

U.S. to issue new Paris climate pact pledge ahead of April meeting

By Zack Colman

02/23/2021 08:32 PM EST

The United States will issue its new climate emissions target before President Joe Biden convenes a planned global summit with world leaders on April 22, Canadian Prime Minister Justin Trudeau's office said on Tuesday.

Canada also pledged to join the U.S. in submitting its new target under the Paris Climate Agreement, which calls for each member nation to set its own goals toward reducing their emissions of greenhouse gases that contribute to climate change. The U.S. must submit a new plan, called a nationally determined contribution, under the terms of its reentry into the pact.

The U.S. officially rejoined the pact last week after President Donald Trump denounced it and pulled the U.S. out, making it the only country in the world outside of it.

And citing the Paris agreement's goal of limiting warming to 1.5 degrees Celsius above pre-industrial temperatures, the two countries said they would seek to work toward reaching net-zero emissions by 2050.

The news of the pledges came as President Joe Biden and Canadian Prime Minister Justin Trudeau held a virtual meeting on Tuesday to discuss several issues, which Biden said included a plan to "double down" on their climate change efforts.

"Now that the United States is back in the Paris Agreement, we intend to demonstrate our leadership in order to spur other countries to raise their own ambitions," Biden said. "Canada and the United States are going to work in lockstep to display the seriousness of our commitment both at home and abroad.

The two countries would hold a high-level climate ambition ministerial to "align our policies and our goals and to achieve net zero emissions by 2050," he added.

Trudeau told Biden during the virtual meeting that Canada was “really excited” to be working with the U.S. again on climate change.

“U.S. leadership has been sorely missed over the past years,” Trudeau said.

The move to update the emissions targets comes as nations prepare to convene in November in Glasgow, Scotland for the annual Conference of Parties summit, where they are expected to announce new goals toward combating climate change and helping poor countries prepare for the effects of a warming world.

Biden announced the April 22 summit in the early days of his presidency, and he hopes to fulfill a campaign promise to bring heads of state of the major economies together to advance progress on the issue and reassert U.S. leadership. The administration has not announced any attendees for that summit yet.

Maura Forrest contributed to this report

To view online:
https://subscriber.politicopro.com/sustainability/whiteboard/2021/02/us-to-issue-new-paris-climate-pact-pledge-ahead-of-april-meeting-3987192

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Message

From: Fox, Radhika [Fox.Radhika@epa.gov]
Sent: 2/26/2021 9:02:57 PM
To: Freedhoff, Michal [Freedhoff.Michal@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Waterhouse, Carlton [Waterhouse.Carlton@epa.gov]
Subject: RE: General w Carlton, Michal, Joe, Radhika
Attachments: OW First 100 Days Plan_DRAFT.docx

-----Original Appointment-----
From: Fox, Radhika
Sent: Friday, February 19, 2021 5:38 AM
To: Fox, Radhika; Freedhoff, Michal; Goffman, Joseph; Waterhouse, Carlton
Subject: General w Carlton, Michal, Joe, Radhika
When: Friday, February 26, 2021 1:00 PM-2:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
Ex. 6 Personal Privacy (PP) United States, Washington DC

Phone Conference ID Ex. 6 Personal Privacy (PP)
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Message

From: Labbe, Ken [Labbe.Ken@epa.gov]
Sent: 1/26/2021 5:43:54 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips, January 26, 2021 (morning edition)

Daily News Clips, January 26, 2021 (morning edition)

Air
AOL: 4 Times in Your Life You Should Definitely Be Using an Air Purifier
Climate
Vox: Biden's "all of government" plan for climate, explained
National Law Review: DC Circuit Vacates Trump's Ace Rule and Deals Biden's EPA New Hand for Regulating Power Plant Greenhouse Gas Emissions
Grain Net: Study Shows Ethanol Emits 46% Less Greenhouse Gasses Than Gasoline
Site Cleanup
WXYZ: State, feds to give update on green ooze contamination site Tuesday night
Michigan Radio: Gelman Sciences files motion to pause lawsuit seeking new plume cleanup plan
Environmental Justice
Inside Climate News: Activists See Biden's Day One Focus on Environmental Justice as a Critical Campaign Promise Kept
Washington Post: What Biden is going to do about racial inequity

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4 Times in Your Life You Should Definitely Be Using an Air Purifier
https://www.aol.com/lifestyle/4-times-life-definitely-using-134539292.html
KARLA WALSH
January 26, 2021, 8:45 AM
Why indoor air quality matters

Even though it's a fundamental human right to breathe clean air, not everyone is fortunate enough to live in an indoor environment that offers that, according to John McKeon, MD, founder, and CEO of Allergy Standards Ltd. (ASL), based in Dublin, Ireland.

"We spend most of our time indoors, particularly in the winter months. According to the U.S. Environmental Protection Agency (EPA), the concentrations of some air pollutants in the indoor environment can be two to five times higher than typical outdoor concentrations," Dr. McKeon says. His company, ASL, partners with the Asthma and Allergy Foundation of America to certify asthma- and allergy-friendly products.

Indoor air quality can be compromised in several ways, he adds. (These are the 12 household items that are poisoning your air.) If you can't eliminate the pollution source or increase ventilation enough to allow for more clean air to circulate, an air purifier can be a good solution.

Why air purifiers are trending now

The machines are becoming an increasingly popular topic in light of the coronavirus pandemic. Not only can air purifiers help trap dust, smells, and dander, but they may also reduce the "viral load" or amount of bacteria in the air. The U.S. Centers for Disease Control and Prevention (CDC) continues to investigate how long respiratory droplets can survive in the air.

We know that airborne transmission—especially in enclosed, crowded spaces with little ventilation—can occur with this virus. So to lower the risk for possible asymptomatic or symptomatic spread or to simply deal with usual indoor air pollution, many Americans are investing in home air purifiers. (Here are 15 ways to decrease indoor air pollution in your home.)

Air purifier in bedroom

How air purifiers work

Air purifiers can be building-wide or installed in your HVAC system, but here we're focusing on more affordable, easy-to-acquire portable air purifiers. These appliances remove tiny particles often thanks to a high-efficiency particulate

air filter (HEPA). HEPA is a type of mechanical air filter designed to trap many sizes of particles, including some that are very fine.

Air purifiers remove pet dander, dust, volatile organic compounds (VOCs), "off" odors, pollen, and air pollution that has floated in from outside. Depending on the model, air purifiers with a HEPA filter may also capture bacterial and viral particles that are 0.3-microns or larger.

Another air purifier option uses short wave ultraviolet-C (UV-C) light to reduce the spread of bacteria and kill viruses. There is limited data about the amount of UV light necessary to inactivate the Covid-19 virus, according to the U.S. Food and Drug Administration (FDA). That said, the FDA also reports that it expects that UV-C light, as opposed to the longer wave ultraviolet rays UV-A or B, will be more effective in dealing with the virus.

For many people, "it's a good idea to invest in portable air cleaners in rooms where they spend the most time like the bedroom, home office or living room," says Melanie Carver, chief mission officer for Arlington, Virginia-based Asthma and Allergy Foundation of America (AAFA).

More on who can benefit most from this investment shortly, but first, let's cover how to pick an air purifier that will actually, well, purify. (Here are the best allergist-approved air purifiers.)

How to choose the best air purifier

"When looking for an air cleaner to improve or help control indoor air quality within your home, remember to look for the "asthma & allergy friendly®" certification mark, which means it meets the following standards for air cleaners," Carver says.

This means the appliance is tested in an environmentally controlled chamber and is proven to reduce allergen levels in the air. (Here's how doctors allergy-proof their homes.)

"Different types of allergens, like grass pollen, pet dander, and dust mite allergen, are used in testing. Because allergens have different sizes and behave in different ways, it is important to make sure the air cleaner can work with a range of them," she says.

It also must not introduce those allergens back into the air—meaning it's captured on the air purifier filter not redistributed around the room. Look for HEPA filters and an air purifier that is Clean Air Delivery Rate (CADR) certified, the Environmental Protection Agency (EPA) recommends.

You can find a complete list of portable air cleaners, whole-home air cleaners, and commercial grade air cleaner products that have earned the certification here.

As far as where and how to use it, "get a purifier that matches the size of the room you are looking to purify. Usually, the bedroom is most important, so figure out the square footage and choose small, medium, and large accordingly," says Purvi Parikh, MD, a New York City-based allergist with Allergy & Asthma Network.

Many models offer "auto-off" or "sleep" functions so you can save energy when you're not in the room. Depending on the conditions, you can run it all the time when you're around or only as needed (flip on or off, or use on low or high).

You might need an air purifier if you are at high-risk for Covid-19 complications

Respiratory droplet transmission is possible through the air, which is why properly worn face masks are so important and have been effective in reducing the spread of Covid-19.

Air purifiers may be helpful if, say, someone in the house had exposure and is quarantining in a room. The air purifier could help reduce the viral load in the air, lessening risk for caretakers.

They may also be beneficial if someone in your house is high-risk and might face the most severe complications resulting from contracting the disease; the high-risk group includes those with heart, lung, liver, or kidney disease,

diabetics, and anyone taking an immune-suppressing drug. An air purifier may help reduce potential exposure from other household members.

Be wary of air purifier products claiming they can outright prevent Covid-19 or destroy the coronavirus. More evidence is necessary to test those claims; also, the EPA does not recommend completely relying on air purifiers for safety due to the lack of current research. However, they can be a great addition to other safety measures like regular sanitizing.

Because one in three Covid-19 cases is asymptomatic, according to just-published research in the journal *JAMA Network Open*, it can't hurt to try better ventilation if you or a loved one is high risk.

Three more times you may also need an air purifier

If you live in a fire zone

Outdoor air pollution from things like wildfires generally seeps into indoor air at 50 to 80 percent of their al fresco concentration. That means a lot of the smoke and chemicals are circulating around you all day, even inside if you live near a wildfire, reports the EPA.

For that reason, the CDC suggests an air purifier as part of an overall wildfire impact mitigation strategy to reduce indoor "particulate matter." In fact, one November 2016 *Environmental Health* study advises that "portable air cleaners should be at the forefront of the "public health response to landscape fire smoke events" to limit hospitalizations and deaths.

If you own a pet

Any pet owner can verify that it's not just about the dander. Most pets add odors to the home, as well. To catch smells, hair, dead skin, or anything else your pet may have brought indoors, consider one of the approved air filters. A HEPA filter should be able to catch most of the offenders. (Learn how a messy house can make you sick.)

If you have asthma or allergies

Most people with asthma will benefit from overall less-polluted air, but not all people with allergies will see an improvement in symptoms.

"Air purifiers are often very helpful for people who have allergies to mold or animal dander, as most other allergens are too small in size to filter out," Parikh says.

Biden's "all of government" plan for climate, explained
https://www.vox.com/22242572/biden-climate-change-plan-explained
Rejoining the Paris agreement is just the start of Biden's climate and clean energy policy.
By Ella Nilsenella.nilsen@vox.com Jan 26, 2021, 9:40am EST

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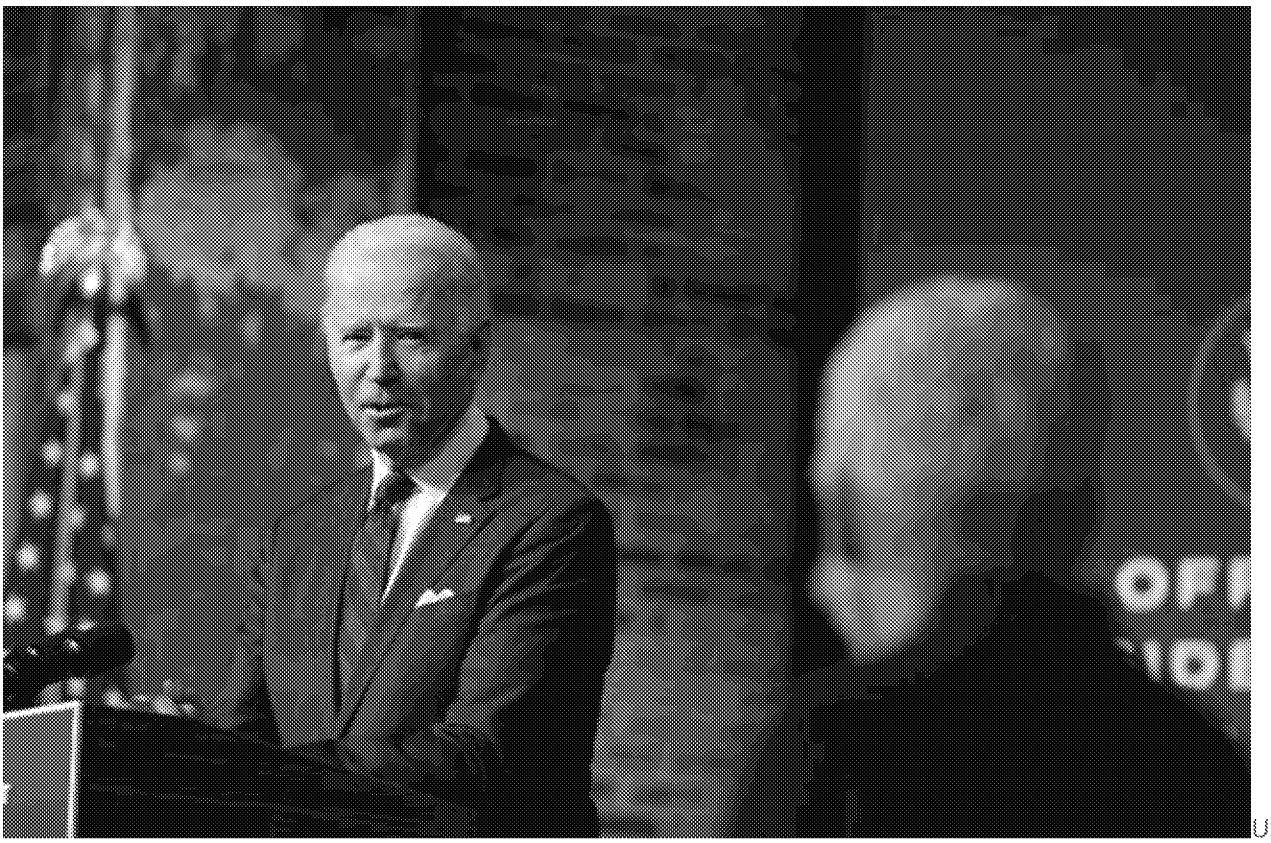


US President-elect Joe Biden speaks during an event to introduce key Cabinet nominees and members of his climate team on December 19. Biden is shown speaking to his domestic climate czar Gina McCarthy. *Alex Edelman/AFP via Getty Images*

President Joe Biden is sending early signals that action on climate change will be front and center to his administration's agenda, and that his climate policy will be intertwined with his economic plan.

"Biden's economic agenda is his climate agenda; his climate agenda is his economic agenda," Sam Ricketts, co-founder of climate policy group Evergreen and a senior fellow at progressive think tank Center for American Progress, told Vox.

Though many of Biden's early actions are centered on speeding up Covid-19 vaccinations and more immediate economic relief for Americans, the White House is positioning its next big policy push on creating jobs through infrastructure. And

Biden's goal is to make his economic recovery green, based on conversations with those familiar with the president's thinking.

"When I think about climate change, the word I think of is 'jobs,'" Biden said in a July campaign speech announcing his $2 trillion climate plan.

Biden's day one executive actions included rejoining the Paris climate agreement and directing his agencies to reverse a number of Trump's actions slashing environmental regulations and emissions standards. But his real stamp on climate will come from intertwining ambitious climate goals like getting to 100 percent clean electricity by 2035 with a bold economic recovery plan — set to be released next month.

The president's climate team is overseen by two climate czars: White House National Climate Adviser Gina McCarthy, who will oversee the nation's domestic climate policy, and Special Presidential Envoy for Climate John Kerry, who will represent the US on the world stage when it comes to climate. Former President Barack Obama's administration had one climate czar, and experts told Vox that Biden doubling that number and placing several other climate experts in key cabinet posts signals it's a pressing priority for the president.

"The era of us having to do climate as this niche set of actions is over," Josh Freed, the founder of the Climate and Energy Program at the center-left think tank Third Way, told Vox. "I think the thing that is really transformative potentially about this administration is it's much bigger than a climate bill or a handful of bills."

Articles Hawley tries to cancel Senate Democrats for canceling him MOREREAD MOREREAD MOREREAD MOREREAD MOREREAD MOREREAD

Of course, Biden's aggressive goals to get the US to completely clean electricity by 2035 and to net-zero emissions economy-wide by 2050 is easier said than done. Not only will Biden have to contend with congressional Republicans; he'll also have to balance the wants of environmental groups that want him to go big on renewable energy with unions, some of whom are more wary of what it could mean for organized labor — in part because there are fewer union jobs in the renewable energy sector.

Biden has a long way to go, but multiple experts say his ambitious plans coupled with his initial personnel picks are an encouraging start.

"I've done this work for a really long time and it was awesome to be a part of the Obama administration, but they've put this on steroids," Carol Browner, who served as Obama's climate czar and EPA administrator throughout Bill Clinton's presidency, told Vox. "It's ambitious, it's proactive, it's durable action on climate change."

Biden is hiring a lot of people with a background in climate change

McCarthy and Kerry will work in tandem from the White House. After four years of a Trump administration that treated Obama's environmental and emissions regulations with a slash and burn mentality, they will have to start by undoing a lot of Trump's actions.

McCarthy, who served as Obama's EPA administrator from 2013 and 2017, is well-regarded by many environmental groups. "We know rejoining [Paris] won't be enough," McCarthy told reporters recently, outlining executive actions by Biden for his agencies to review and renege Trump's actions on lowering emissions standards, including revoking Trump's presidential permit for the Keystone XL pipeline.

"There is enormous opportunity with a whole-of-government approach that this administration is going to take to make meaningful progress," she added.

Kerry, formerly Obama's secretary of state and a close Biden adviser on climate, is a natural fit to represent the US in international climate talks. Climate change is a global issue, and under Trump, the United States took itself out of the international effort to reduce emissions under the Paris agreement. A big part of Kerry's job will be working to rebuild goodwill with countries wary that the US pulled out of the agreement to begin with. To do that job effectively, he'll need regular updates from McCarthy on what the federal government is doing at home to drastically lower US emissions.

"The two pieces have to coexist, both the domestic and international," said Heather Zichal, a former Obama White House staffer who was integral in creating Obama's Clean Power Plan. "We need to be prepared to say what we're prepared to do as a country. The international work is once we know what we're capable of, we're better able to work with the international community."

There's also the potential that two climate czars who both report to the president could butt heads over the direction of US climate policy. Kerry's ability to do his job well will be entirely dependent on McCarthy and other domestic officials' ability to make progress on climate at home.

In addition to McCarthy and Kerry, Biden selected former Rep. Deb Haaland of New Mexico as a historic pick to lead the US Department of the Interior (Haaland is the first Native American to do so). His pick for the Environmental Protection Agency is Michael Regan, the secretary of North Carolina's Department of Environmental Quality, and Biden selected former Michigan Gov. Jennifer Granholm as US Secretary of Energy. To round out the list, McCarthy's deputy in the White House is Ali Zaidi, the former New York chair of climate policy and finance.

Ricketts, the co-founder of Evergreen Action, told Vox that this team is "also one that's demonstrated experience at the state level, and comes from places that are actually making progress. There's a lot the federal government needs to learn from states."

The president's climate-focused picks also go beyond environmental agencies. Brian Deese is Biden's top economic adviser and director of the National Economic Council, and was a key person who helped negotiate the Paris agreement in Obama's administration.

Some progressive climate groups including the Sunrise Movement were wary about Deese because of his time as the global head of sustainable investing at BlackRock, the world's largest asset manager. But Sunrise political director Evan Weber also told Vox that the fact Deese's appointment to the National Economic Council was being framed around climate, as well as economic growth, was encouraging.

"We do hope there's central coordination and direction. We see Gina and Ali hopefully as the conductors of the federal government climate symphony," Weber told Vox recently. "I think that these are very encouraging signs, but personnel is the first step of the puzzle and the proof is going to be in the pudding. How urgent are they going to be in their action, how much more ambitious than Obama?"

Biden could put the full force of the federal government toward fighting climate change

Multiple former Obama administration staffers told Vox that even with all of these appointments, the person who really matters in all of this is Biden himself. Presidents have to be invested in an issue for them to throw the full weight of their administration behind it.

Biden becoming a potential agent of change on climate may be surprising for some; it wasn't a top issue for the president throughout his decades in the Senate. But climate groups also saw some opportunity: Biden did plenty of work around renewable energy as vice president, especially during his tenure overseeing Obama's 2009 stimulus plan. And like Kerry and McCarthy, Biden is a grandparent who is concerned about what a warming planet will mean for his grandchildren's future.

Biden's bullishness on climate also comes in large part from the fact that he sees renewable energy options like wind and solar as having the potential to drive the green economy through power generation. Still, Biden could have his work cut out for him to convince some major unions that endorsed him that an economy completely powered by renewable energy is the way of the future.

AFL-CIO President Richard Trumka recently told Vox his union has told Biden's team "what we think strikes the right balance between doing what we need to do to go green and at the same time not upending or putting a lot of people out of work in the process."

It also comes from seeing the dire impacts of climate change in historic wildfires, hurricanes, and droughts. Science has never been more clear on our short 10-year window to bring down the earth's warming or face catastrophic consequences — and many of those impacts can be seen each year.

"Leadership starts from the top," Zichal told Vox. "The fact Biden has made it clear this is a top priority, we need to leave no stone unturned and move aggressively — that really, really matters."

Past administrations have typically relegated climate change and environmental issues to a handful of agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Interior.

Using all of the federal government to combat climate change also empowers agencies like the US Department of Housing and Urban Development to implement new sustainability standards for newly constructed or upgraded affordable housing. It means that the Department of Transportation could be charged with setting up more charging stations for electric vehicles, or spend more money on public transportation. And it could mean that the US Department of Agriculture tries to work with the nation's farmers to reduce the amount of emissions coming from livestock and soils — about 10 percent of total US greenhouse gas emissions in 2018.

The White House and the federal government have a lot of tools they can use to combat climate change, even beyond pushing a green infrastructure package through Congress. In addition to using government regulations to change emissions standards for vehicles and appliances, Biden's administration can also leverage its own buying power through federal procurement.

"The government has many different tools, the good news about Biden is he's looking to use all of them," Browner said.

The US government is one of the world's largest consumers, and Biden's administration is already urging its agencies to buy American. They could also incentivize them to buy sustainably by being an outsized competitor in the free market.

"It's a market signal of where large purchasers are headed, and it gives companies an early opportunity to move," Freed, who works at Third Way, said.

The US economy is already trending toward renewable energy; renewables power about 11 percent of US energy consumption (the same amount as coal), but still pale in comparison to oil and natural gas. Biden's administration could

rapidly accelerate that trend. Biden has already staked out aggressive decarbonization targets, but his administration needs to move quickly to achieve them.

"The private sector and the economy shifted far more dramatically towards clean energy; it's just happening," Freed said. "The politics have changed, and the urgency has changed, and it makes the landscape look a lot different than it did in 2017 or even 2013."

DC Circuit Vacates Trump's Ace Rule and Deals Biden's EPA New Hand for Regulating Power Plant Greenhouse Gas Emissions
https://www.natlawreview.com/article/dc-circuit-vacates-trump-s-ace-rule-and-deals-biden-s-epa-new-hand-regulating-power
Tuesday, January 26, 2021

On 19 January 2021, the eve of inauguration for the Biden Administration, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) struck down the Affordable Clean Energy Rule (ACE Rule).[1] Issued under the Trump Administration's Environmental Protection Agency (EPA), the ACE Rule repealed and replaced the formerly enacted Clean Power Plan (CPP)[2] and sought to establish a more narrowly defined framework for the regulation of power plant greenhouse gas (GHG) emissions.[3] As a premise for the ACE Rule, the Trump EPA argued that Section 111 of the Clean Air Act (CAA), codified at 42 U.S.C. § 7411, contains clear and unambiguous language limiting the EPA's emission reduction measures to improvements "at" and "to" existing GHG emissions sources.[4] However, the D.C. Circuit held that the CAA does not require the EPA to confine its GHG regulation in this way and, in fact, that the Trump EPA's interpretation under the ACE Rule constituted a "fundamental misconstruction" of the statute.[5] The D.C. Circuit also found that the ACE Rule's extended compliance deadline requirements were arbitrary and capricious insofar as they relaxed the schedules for federal action and state compliance under Section 7411(d).[6] The D.C. Circuit's decision clears the way for the Biden EPA to establish a new regulatory framework for power plant GHG emissions.

The EPA's regulation of power plant GHG emissions is traceable to the U.S. Supreme Court's decision in Massachusetts v. EPA, 549 U.S. 497 (2007). In that decision, the Supreme Court held that carbon dioxide and other greenhouse gas emissions constituted "air pollutant[s]" for purposes of motor vehicle regulation under Title II of the CAA.[7] The Court directed the EPA to establish standards for GHG emissions from vehicles unless the EPA determined that GHGs did not contribute to climate change.[8] The EPA found that such GHGs are polluting the atmosphere and endangering human health.[9] This "endangerment finding," as a corollary, was viewed as triggering an obligation in EPA to adopt performance standards for new stationary sources of GHG emissions and states to adopt plans that establish performance standards for existing stationary sources of those emissions. The reason is that Section 7411 of the statute directs the EPA and states to regulate in this way if the stationary sources "cause[], or contribute[] significantly to, air pollution" that "may reasonably be anticipated to endanger public health or welfare."[10] Accordingly, the CPP, adopted in 2015, and the more recent ACE Rule embodies the EPA's most recent efforts to conform power plants' emission levels to the strictures of the CAA.

Using the CPP, the EPA sought to reduce GHG emissions through three methods.[11] The first method focused on on-site technology improvements for power plants.[12] The second and third methods focused on "generation shifting," achieved by prioritizing lower-emission energy sources over higher-emission sources of energy.[13] Specifically, the second method added the "substitut[ion of] increased generation from lower-emitting existing natural gas" for generation from primarily coal-fired, higher-emitting power plants.[14] Similarly, the third method prioritized the use of zero-emitting renewable energy sources over high-emitting power plants.[15] Together, the CPP deemed these three methods the "best method of emission reduction."[16] However, before taking effect, the CPP was challenged in court, with the challenge ultimately being dismissed as the EPA reassessed its position.[17]

In 2019, the EPA issued the ACE Rule, thereby repealing and replacing the CPP.[18] The EPA explained that it interpreted Section 7411(d) of the CAA to unambiguously constrain emissions reduction methods to those measures that can be put into place at a building, structure, facility, or installation.[19] At its core, the ACE Rule disposed of the second and third

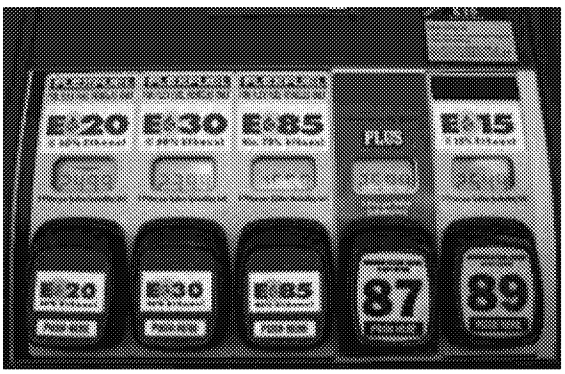
"generation shifting" methods utilized under the CPP and confined permissible emission reduction measures to physical changes to the power plants themselves.[20] The ACE Rule also relaxed the timeline requirements for states to develop and submit their emissions reduction plans for existing stationary sources and the EPA to act on states' plans.[21]

The D.C. Circuit's 19 January 2021 decision rejected the EPA's interpretation of Section 7411(a)(1) (which defines "standard of performance," among other terms) as requiring the EPA to confine emissions reductions measures to those applicable "at and to the source."[22] The court explained that the EPA incorrectly applied source-specific language found in Section 7411(d)(1) to its reading of subsection (a)(1).[23] The court noted that the plain language of subsection (a)(1) does not support the interpretation embodied in the ACE Rule, nor does a reading of subsections (a)(1) and (d)(1) taken together.[24] Looking at the definition of "standard of performance" in subsection (a)(1), the court stated that "Congress imposed no limits on the types of measures the EPA may consider beyond three additional criteria: cost, any nonair quality health, and environmental impacts, and energy requirements."[25] Lastly, the court found that the ACE Rule's extension of compliance deadlines failed for lack of reasoned support.[26] Specifically, the court held that the EPA modeled the compliance deadlines after those found in the National Ambient Air Quality Standards (NAAQS) without addressing the differences between the NAAQS and performance standards for stationary sources.[27] Moreover, the court stated that the EPA disregarded environmental and public health considerations in adopting extended compliance deadlines.[28]

The court did not state whether the EPA's interpretation of the CAA was impermissible. Rather, the court noted that "deference to an agency's interpretation of a statute is not appropriate when the agency wrongly believes that interpretation is compelled by Congress."[29] Because the EPA contended that its interpretation was the only permissible interpretation of the scope of its authority, the court could not defer to that reading even if it was one of several permissible interpretations of the statutory language.[30] The court vacated the ACE Rule and remanded it to the EPA for further consideration in light of the ambiguity that the court found in the language of Section 7411(a)(1).[31] While the D.C. Circuit did not uphold the ACE Rule, it did not reinstate the 2015 CPP. Notably, by vacating the ACE Rule, the court provided the Biden Administration with a path to construct a new framework for regulating greenhouse gas emissions from power plants. EPA is likely to commence this significant task within the first hundred days of the Biden administration and against the backdrop of President Biden's 20 January 2021 acceptance of the 12 December 2015 Paris Climate Agreement.[32] EPA's new rule will almost certainly require owners and operators of power plants that generate GHGs to be more strategic and efficient in how they operate their plants -- both collectively and individually -- going forward.

Study Shows Ethanol Emits 46% Less Greenhouse Gasses Than Gasoline
https://www.grainnet.com/article/222114/study-shows-ethanol-emits-46-less-greenhouse-gasses-than-gasoline

Date Posted: Jan 26, 2021



Newton, MA — Research from Environmental Health & Engineering, Inc. (EH&E) shows that greenhouse gas (GHG) emissions for ethanol, a biofuel made from corn, are 46% lower than gasoline.

Conventional wisdom based on a prior analysis done by EPA had pegged the difference to only 20%.

EH&E's topical review of the latest science shows that this renewable biofuel is less carbon intensive and more climate-favorable than previously thought.

"This research provides an up-to-date accounting of corn starch ethanol's GHG profile in comparison to that of gasoline refined from crude oil," says EH&E Chief Science Officer David MacIntosh.

"The results of this research are timely for the scientific, public health, legislative, and business communities seeking to establish a net zero carbon economy while addressing related technological, political and economic challenges."

The research delivers a transparent, state-of-the-science assessment on life cycle analyses of corn starch ethanol in the U.S.

EH&E researchers reached their conclusions after critically reviewing earlier life cycle analysis modeling and data, and consulting with more than two dozen experts from government, academia, and nonprofits.

Their findings uncovered significant reductions in carbon intensity made possible by advances in farming technology, soil conservation practices, and production of animal feed as a by-product of making ethanol.

EH&E's assessment also shows that carbon emissions from converting prior land uses to corn farming make up only 3.9% of the biofuel's total GHG emissions--a much smaller amount than generally recognized.

This finding stems directly from the latest models and data that consider both the economic value and productivity of land to estimate release of carbon when land is put into corn production.

The research's findings suggest that substitution of conventional gas with corn ethanol could deliver a net carbon sink over a much shorter period than previously estimated.

Today, corn ethanol accounts for about 10% of liquid fuel sold at gasoline stations in the U.S. and has the potential to account for a greater share of liquid fuel for transportation.

The findings provide much-needed data for decisions and policies on the future role of biofuels to address climate change as well as opportunities for continued reduction of carbon emissions across the life cycle of corn ethanol.

State, feds to give update on green ooze contamination site Tuesday night
https://www.wxyz.com/news/state-feds-to-give-update-on-green-ooze-contamination-site-tuesday-night

Photo by: (WXYZ)
Posted at 9:50 AM, Jan 26, 2021

and last updated 9:50 AM, Jan 26, 2021

The U.S. EPA and the Michigan Department of Environment, Great Lakes, and Energy, are expected to provide an update on the green ooze site in Madison Heights on Tuesday night.

It's been more than a year since green ooze began leaking out onto I-696. It was later identified as hexavalent chromium from the site of the former Electro-Plating Services in Madison Heights.

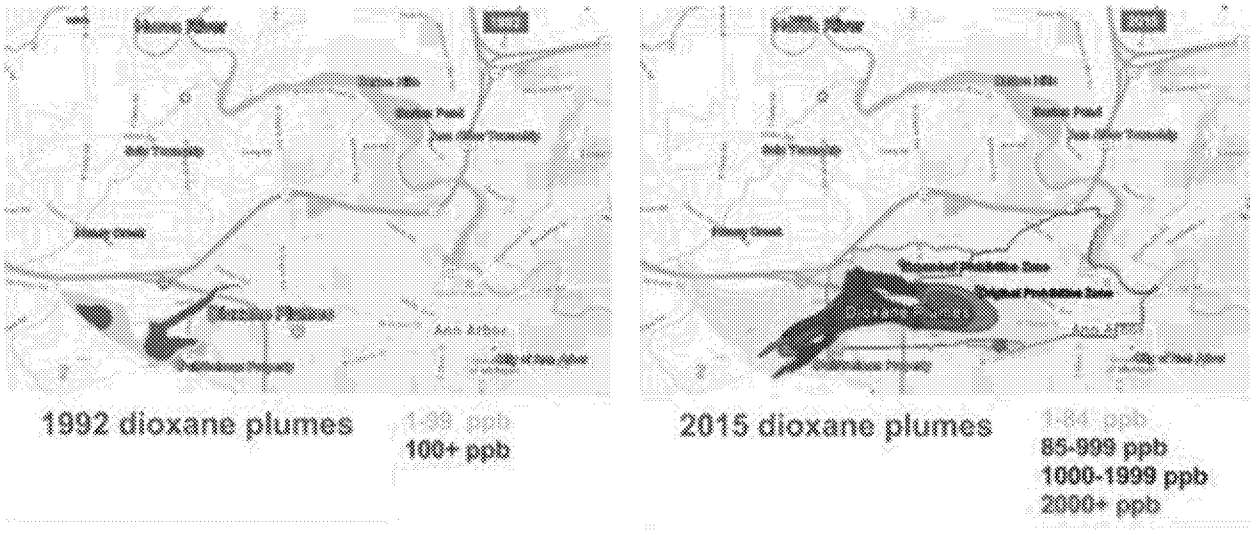
The EPA, the lead agency on the site for now, has already removed 312,000 gallons of contaminated liquid from the site and disposed of it off site. But the work is far from over.

During the virtual meeting, the EPA will give a presentation on the treatment process selected for the Electro-Plating Services site, and community members can ask questions.

Virtual community update meeting set for environmental response at Electro-Plating Services, I-696 site

There will be panelists from the EPA, EGLE, Materials Management Division, Michigan Department of Health and Human Services and the City of Madison Heights.

Gelman Sciences files motion to pause lawsuit seeking new plume cleanup plan
https://www.michiganradio.org/post/gelman-sciences-files-motion-pause-lawsuit-seeking-new-plume-cleanup-plan
By TRACY SAMILTON • 1 HOUR AGO



A plume of groundwater contaminated by Gelman Sciences with 1,4 dioxane is spreading in Scio Township and Ann Arbor
CREDIT SCIO RESIDENTS FOR SAFE WATER

Gelman Sciences wants a Washtenaw County judge to pause court proceedings in the 1-4 dioxane pollution cleanup case.

Gelman is responsible for a plume of contaminated groundwater that's been spreading in the Ann Arbor area for at least 37 years.

Attorneys for Gelman say the court proceedings seeking a new cleanup plan should stop because they could end up being moot. That's because the city of Ann Arbor and Scio Township, which are plaintiffs in the case, have also asked the EPA to step in and declare the plume a Superfund site.

Will Hathaway is Supervisor for Scio Township. He says Gelman Sciences is following the same game plan it has for years, which is to delay a more intensive cleanup.

"There is a tremendous amount of work that's been done in the court process and it would be a shame to lose all that by Gelman basically sort of saying 'oh, we should throw this all away,'" Hathaway says. "We're concerned about the people who have to live w the pollution that Gelman caused over a long period of time and Gelman seems to be doing everything it can not to deal with it."

The contamination continues to spread despite Gelman's current cleanup efforts. Homes in Scio Township have had to be removed from well water, and the plume has spread into Allen Creek, which leads to the Huron River. The plume is also inching towards Barton Pond, the source of Ann Arbor's drinking water.

In addition to asking the judge overseeing the case to pause the proceedings, Gelman has also asked for the City of Ann Arbor, Scio Township, and the Huron River Watershed Council to be removed as plaintiffs in the case, leaving only the Michigan Department of Environment, Great Lakes, and Energy.

Activists See Biden's Day One Focus on Environmental Justice as a Critical Campaign Promise Kept

https://insideclimatenews.org/news/24012021/activists-see-bidens-day-one-focus-on-environmental-justice-as-a-critical-campaign-promise-kept/

The new president signed executive orders on inauguration day aimed at embedding equity across the government and rolling back Trump's anti-environment legacy.

By Kristoffer Tigue, Agya K. Aning, Judy Fahys, Katie Surma

January 24, 2021

Chemical plants and factories line the roads and suburbs of the area known as 'Cancer Alley' along the Mississippi River in Louisiana on Oct. 15, 2013. Credit: Giles Clarke/Getty Images

Catherine Flowers remembers the moment she realized the environmental justice movement had entered a new era of acceptance and recognition.

It came last spring, the environmental justice activist said, when then-candidate Joe Biden snatched the Democratic nomination from Sen. Bernie Sanders and shortly afterward announced the creation of a joint task force to shape climate change policy. "He talked about environmental justice," said Flowers, recalling her sense of amazement.

"He also mentioned 'cancer alley.' I've never heard a president mention 'cancer alley' before," she said, referring to a highly industrialized stretch of the Mississippi River in Louisiana, where a mostly Black population has some of the highest cancer rates in the country.

Flowers, now a senior fellow of environmental justice and civic engagement at the Center for Earth Ethics at the Union Theological Seminary, soon found herself on Biden's task force alongside former Secretary of State John Kerry and former Environmental Protection Agency Administrator Gina McCarthy.

She recommended incorporating social justice considerations into every aspect of the new administration's environmental agenda—and felt ecstatic, hours after Biden's inauguration on Wednesday, to see that her recommendations were being taken seriously.

The new president, she said, wasn't offering "empty campaign promises."

She and other prominent environmental justice advocates said two executive orders he signed Wednesday night placed unprecedented focus on racial equity and environmental justice, setting the stage to aggressively target the disproportionate impacts of pollution and climate change on environmental justice communities.

"He's rebuilding trust with vulnerable communities, frontline communities, and with the federal family," said Mustafa Ali, the vice president of environmental justice, climate, and community revitalization at the National Wildlife Federation. "These orders serve as a north star for the direction the federal government will be moving in."

One of the Biden orders called for a "whole-of-government" approach to embedding equity across federal policymaking, which would encompass everything from how data is collected to whether agencies allocate resources fairly.

The other calls for the review and potential reversal of over 100 Trump administration actions weakening and rolling back environmental laws and regulations—"critical first steps," the document says, "to address the climate crisis, create good union jobs and advance environmental justice."

Beginning with Trump's decision not to upgrade air pollution standards, the rollbacks sought by Biden speak to what environmental justice activists called basic air, water and climate regulations that, if left in place, would amount to a death sentence for communities of color.

"The experience of the Covid pandemic, we think, has finally, maybe, broken through for people to understand what we've been saying for three decades, that there is a relationship between racial discrimination, the preponderance of environmental threats in communities of color, and adverse health outcomes in those communities, as well as shortened life expectancy," said Vernice Miller-Travis, executive vice president of the Metropolitan Group, a think tank focused on sustainability and social justice.

The Trump administration decided against strengthening air pollution standards despite a growing body of research showing that air pollution kills as many as 52,100 Americans prematurely each year and disproportionately affects low-income communities and communities of color.

The Biden administration is also reviewing the Trump rules that stripped the conservation protections from millions of acres of federal land in Alaska and the Southwest that Indigenous tribes revere and depend upon for their livelihood.

With another series of executive orders regarding climate change expected this week, Flowers said she hopes the auspicious beginning foreshadows a permanent seat at the table for EJ activists.

"We're not even 24 hours into the administration and all this is already happening?" she said after Biden took the oath of office. "It gives me hope."

Rolling Back the Trump Legacy on Climate and the Environment

The executive orders Biden signed on inauguration day acknowledged what environmental justice advocates had been saying throughout the presidential campaign about the disproportionate impact Trump's environment and climate legacy has had on communities of color. The coronavirus pandemic, which also disproportionately affected those communities, only added urgency.

Most harmful, the activists said, was the decision last year by Trump's Environmental Protection Agency to reject the recommendations of the agency's own scientists to strengthen the national air quality standard for fine soot pollution, also known as PM2.5.

A Harvard study last year found a link between Covid-19 death rates and communities with a historically higher exposure to PM2.5—microscopic particles less than 2.5 micrometers in diameter—which also tend to be in higher concentrations in low-income communities of color.

This connection between PM2.5, which comes from burning fossil fuels, and a raging pandemic only underscores the critical need for Biden's call to strengthen this standard, Miller-Travis said.

Biden's rollback order also targeted Trump's move to weaken the scope of the National Environmental Policy Act, and particularly a provision that would prevent federal regulators from considering the indirect and cumulative effects of polluting projects before permitting them. Under Trump's rule, regulators won't be urged to consider if a community already faces high levels of pollution as a factor in permitting future industry infrastructure, such as landfills or power plants.

Trump's rule change received harsh criticism from environmental justice advocates, who already found NEPA lacking."

"The limited protection that folks had was removed, but really what EJ communities really need is a cumulative impacts analysis," said Sacoby Wilson, an associate professor at the University of Maryland's School of Public Health.

This means expanding NEPA to consider additional factors, such as institutional racism and a community's access to health care.

Coupled with reviews of other Trump rollbacks that would likely result in higher levels of air pollution, the Biden administration appears to be taking an aggressive and holistic approach to addressing the disproportionate effects of pollution on environmental justice communities, the activists said. And they are calling on Biden to move on those reviews as quickly as possible.

"I think every rollback could be connected to an EJ issue," Wilson said. "When you permit facilities to pollute, to poison communities, that's another form of state-sanctioned violence."

But the timeline to counteract the numerous rollbacks vary widely. Some could be undone with a congressional vote, while others could take the entirety of Biden's first term, environmental and legal experts said.

"The Trump rollbacks meant to reduce red tape for industry created more yellow tape for frontline and fenceline communities," Wilson said in an email. "Any delays in reversing Trump's reign of environmental terror will continue the devastation and environmental degradation that these communities have faced over the past 4 years."

Laying a New Foundation

Biden's opening agenda, as well as promises he made on the campaign trail, also points to broader structural changes that could have lasting impacts on addressing environmental justice.

His executive order for racial equity across the whole government lays the foundation for a slew of possible environmental justice-focused actions, including requiring all federal agencies to look at whether underserved communities face systematic barriers to opportunity under existing policies and programs.

"There's a lot of high minded language in the orders, but it's the foundation for having long lasting change. It's a bold move for day one," said Jillian Blanchard, director of the climate change program at Lawyers for Good Government.

The order is just a first step for environmental justice advocates who want to see a number of other policy changes that embed racial and environmental equity across the federal government.

Ali, who headed the EPA's environmental justice efforts during the Obama administration, has been advocating for Biden to appoint senior environmental justice advisors within each executive agency and in the White House. He said it would be a good step if Biden fulfills his promise to elevate the EPA's Environmental Justice Advisory Council and the Environmental Justice Interagency Council as White House entities.

"Biden has said EJ and climate are top priorities, so to not have a top advisor helping to guide him and share relevant information and experiences leaves a gap and doesn't get at the large set of challenges and opportunities that we have in front of us," he said.

Under Biden's proposal, those entities would report to Brenda Mallory, whom he has nominated as chair of the White House Council on Environmental Quality. If confirmed by the Senate, Mallory, who is now director of regulatory policy for the Southern Environmental Law Center, would be the first African American to hold the position.

Advocates are also watching for action on Biden's promise to go after polluters. According to his environmental justice plan, Trump's EPA referred the fewest number of criminal anti-pollution cases for prosecution in 30 years.

Biden said he would create a new Environmental and Climate Justice Division in the Department of Justice to work with the existing Environment and Natural Resources Division and the Civil Rights Division to go after polluters, including an effort to address "legacy pollution that includes real remedies to make communities safe, healthy, and whole."

"The fact that we did not have that type of division in the past, it really undercut the ability for frontline [and] fenceline communities to seek action," Wilson said. "It's also going to push the civil rights divisions of all the federal family to do more..."

Biden also wants to target the EPA's External Civil Rights Compliance Office. His plan would overhaul that office to empower, under Title VI of the 1964 Civil Rights Act, communities "that experience the worst impacts of climate change and fenceline communities that are located adjacent to pollution sources."

Environmental justice communities have used Title VI to address racial discrimination to fight some permitting and siting decisions of facilities that release harmful pollutants. But the pathway to justice under Title VI was narrowed by the U.S. Supreme Court in 2001, which forced communities to bring most claims within the EPA, instead of in the courts. The EPA has failed to promptly and adequately resolve those complaints, according to one report and court rulings.

Biden said he wants to work with Congress on legislation that would provide a pathway for communities to bring "disparate impact" Title VI lawsuits into courts, which would give communities another avenue for redress, potentially allowing more cases to be heard.

Caroline Farrell, executive director of the Center on Race, Poverty & the Environment, has worked with low-income communities to file a number of Title VI complaints with the EPA. She said the EPA has never prioritized Title VI complaints, has been slow in taking action on them, and when pressed to take action, has summarily dismissed them.

"Enough is enough. We need to start making this mean something in a way that people really feel like, okay, yeah, my rights are being protected," she said.

The best way for Biden to make lasting change will be to work with Congress on legislation, something that will be difficult given the Democrats' smallest of majorities in the Senate. Infrastructure is one area where both parties could find common ground.

Environmental justice advocates said they would like to see that legislation focus on minimizing environmental harms to disadvantaged communities while providing opportunities, like contracting and subcontracting work to businesses of color that haven't always been on equal footing when it comes to federal resources.

"This is a transformational moment, let's make sure that it is a transformational moment for those who have often been unseen, unheard, or intentionally left out of the process," Ali said.

As the administration moves forward, activists said they'll be keeping an eye on the administration to ensure that environmental justice communities continue to be at the table through the policymaking process.

"The administration should keep checking in with people in the EJ community that are living this every day to make sure they're going in the right direction," said Flowers. "There should be constant check ins."

Environmental justice community members, and not just Biden's cabinet officials, should also retain seats at the table as climate and environmental policy evolves, she said, adding: "That's what we're going to be looking for over the next 4 years."

The Looming Battle Over Bears Ears

Less than a week into the new administration, a fight over those seats is already taking shape in Utah, where the Trump administration's downsizing of the Bears Ears National Monument was targeted in Biden's order for regulatory review.

A looming battle over mining rights will pit Indigenous communities in the Four Corners Region of Utah, Colorado, Arizona and New Mexico against white Republicans who see the creation of the monument as government overreach.

A coalition of southwestern tribes—the Navajo, the Ute Indian Tribe, the Ute Mountain Utes, the Zuni and the Hopi—originally brought the monument idea to the Obama administration. And Obama established the all-Indigenous Bears Ears Commission to help manage the new monument in its 2016 proclamation.

The sun sets over Bears Ears National Monument seen from the Moki Dugway on June 11, 2017 north of Mexican Hat, Utah. Credit: Katherine Frey/The Washington Post via Getty Images

But within a year, the Trump administration carved 1 million acres from Bears Ears at the request of Utah's GOP-majority political leadership. The commission was supplanted with an appointed advisory panel that was hostile to the monument and that put monument opponents in the two slots it left for tribal members.

During much of this time, while the public debate was focused on mining, the county containing Bears Ears was facing court orders—again—to comply with the Voting Rights Act to address why white Republicans ruled San Juan County when most of the county's population is Native American. The commission went on record opposing the monument until the 2018 elections made a pair of Navajo Democrats the governing majority. They repealed the anti-Bears Ears declarations.

Indigenous roots in the region are thousands of years deep, and archaeologists see it as an invaluable window into human history, rich with clues about how people have adapted to climate change. But Woody Lee, executive director of the nonprofit Utah Dine Bikeyah, said the remarkable redrock landscape isn't only important because of artifacts. It continues to be a hub of traditional activities.

"That is our chapel," he said. "That is our home; that's where we pray; that's where we gather our food; that's where we gather our firewood for heating; and that's where we still educate our young for traditional hunting [and where young women find plants] to make our wedding baskets and ceremonial baskets."

Lee, whose group advocated for the monument, applauded the Biden administration's first-day order to review Trump executive actions on Bears Ears. He's eager for Bears Ears supporters to take part in the dialog after the Trump administration shut them out.

But other political leaders in Utah had stepped up to voice their opposition to Biden's order before Inauguration day ended.

"A review in name only with predetermined results, which ultimately leads to a unilateral executive order enlarging the monuments' boundaries, will not solve the root of the problem and will only deepen divisions in this country," the state's all-Republican members of Congress, its new governor, the attorney general and leaders of the state House and Senate said in a news release.

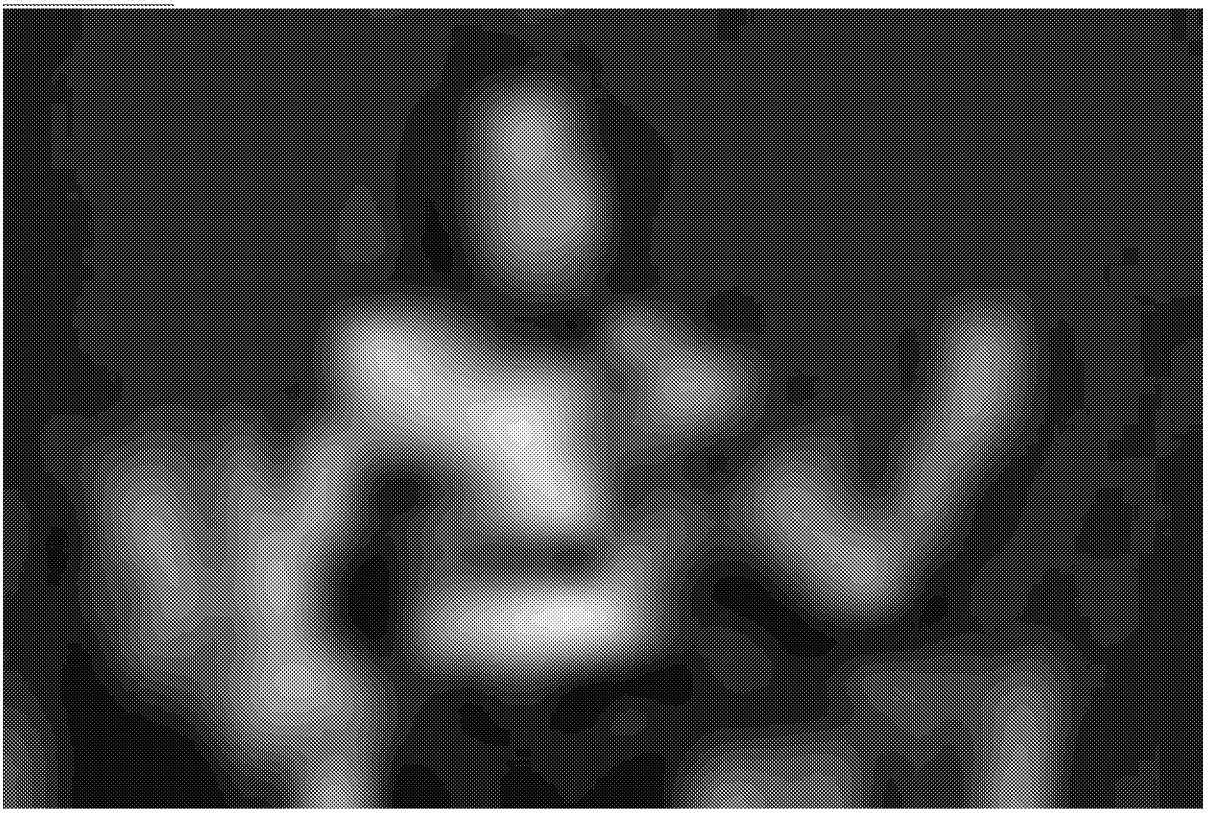
Their statement urged Biden to include state and local leaders in working on a consensus product, "including a permanent solution approved by Congress."

Lee's response: "We are Utahns," he said, "and we'd like to be allowed to sit at these tables on any type of issues that involve our lands within Utah."

In the end, Bears Ears could prove to be a sign of the challenges ahead for Biden's environmental justice agenda.

What Biden is going to do about racial inequity
https://www.washingtonpost.com/opinions/2021/01/25/what-biden-is-going-do-about-racial-inequity/

Jennifer Rubin



Former national security adviser Susan Rice speaks at Vanderbilt University in Nashville in February. (Mark Humphrey/AP)

On his first day in office, President Biden signed an executive order titled, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government." The media did not pay much attention to this, given that it did not directly or exclusively focus on fighting the coronavirus, but it could wind up being among Biden's more important initiatives.

By naming Susan Rice head of the domestic policy council, Biden aimed to make sure this was more than fluff. His longtime aide, who has the authority to speak for Biden, has the potential to make strides both in personnel and in policy matters, according to those close to the project. The New York Times reported Rice "recruited a team with deep roots in civil rights and justice":

She said Mr. Biden persuaded her to return to the White House with the promise that equity issues would not be "an isolated bubble," but rather a central mission of his administration, one focused on rolling back the legacy of President Donald J. Trump, who she said "deliberately sought to divide and degrade huge segments of our population."

The initiative has a number of components including developing the tools and expertise within government to ensure that policies distribute benefits equitably. We have already seen that with the establishment of a covid-19 equity task force within the Health and Human Services Department. Yale University's Marcella Nunez-Smith will head that effort. Theoretically, this could affect everything from Justice Department sentencing guidelines to Environmental Protection Agency policies. In 2018, the Atlantic reported that the EPA's study "indicating that people of color are much more likely to live near polluters and breathe polluted air" found stunning data to confirm that "black people are exposed to about 1.5 times more particulate matter than white people, and that Hispanics had about 1.2 times the exposure of non-Hispanic whites."

Any effort to address inequities would have to come up with benchmarks to hold the government accountable and, as an official told me, "the data to hold ourselves accountable because you can't fix what you can't measure."

Beyond that, Biden plans to address hiring and advancement inside the federal government. The issue already came up, for example, in the confirmation hearing for secretary of state nominee Antony Blinken. Sen. Robert Menendez (D-N.J.) said the State Department's workforce does not come "close to reflecting the diversity in our country." Blinken specifically pledged to hire a senior chief diversity officer and put in place an appropriate recruitment and retention process. We have heard that before from the State Department, which has had a notoriously poor record on diversity. Rice, who served both as ambassador to the United Nations and national security adviser, would seem well-suited to making certain Blinken makes good on his promises.

The Justice Department has a similarly pathetic record on diversity. Last fall, the Associated Press found that "a persistent lack of diversity in the ranks of U.S. attorneys has reached a nadir in the Trump administration. Eighty-five percent of his Senate-confirmed U.S. attorneys are white men, according to AP's analysis. ... White men lead 79 of the 93 U.S. attorney's offices." Likewise, in 2019, the DOJ Gender Equality Network complained about the lack of women

leadership in the department. Forty-five percent of attorneys, according to the letter, were women, but only 38 percent of senior executive positions were held by women. That record is particularly egregious given that women in recent years make up half or more of law school classes.

In sum, Rice and the president have their work cut out for themselves to make good on Biden's campaign promises to Black, Hispanic and other non-White voters. It is a truism that in a natural or economic disaster, the gap between rich and poor, Black and White increases. (In the wake of the pandemic, Black unemployment stands at 9.9 percent and Hispanic unemployment at 9.3, compared with 6 percent for Whites.) Part of Biden's "Build Back Better" agenda will depend not simply on getting back to where we were on racial equity before the pandemic and recession but attacking systemic racism. His legacy will depend in part on how he measures up in that regard. That makes Rice one of the most important figures in the administration.

E.J. Dionne Jr.: For Biden, urgency will matter more than unity

John R. Bolton: Trump didn't think, or act, strategically about China. Biden needs to do both.

Derrick Johnson and Leslie Proll: The Biden administration must go into overdrive to reclaim our courts

James Downie: Republicans' tendentious two-step

Fred Hiatt: Pence and McConnell helped save democracy — after helping to endanger it

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Message

From: Kibilov, Nicholas [Kibilov.Nicholas@epa.gov]
Sent: 3/12/2021 4:50:57 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Clips: March 12, 2021 (morning edition)

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Ama Nunoo, Face2Face Africa, For the first time, EPA is being led by a Black man. Here's how he plans to transform the agency
Lisa Friedman, NYT, Senate Confirms Biden's Pick to Lead E.P.A.

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Jennifer Hijazi, Bloomberg Law, Biden EPA Ponders 'Hail Mary' Move on Greenhouse Gas Air Limits
Jeremy Cox, Bay Journal, Judge rules Maryland must regulate chicken farm air pollution

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Kevin Zimmerman, Westfair, The WorkPlace receives $200K EPA grant to train Bridgeport students in brownfield remediation

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Water Tech, EPA settles with North Dakota gas plant over CWA violations
Post Star, New York lawsuit against EPA over GE's Hudson River cleanup dismissed
Leah Willingham, Jackson Free Press, Water Restored, But Most of Jackson Still Under Boil Notice

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For the first time, EPA is being led by a Black man. Here's how he plans to transform the agency
https://face2faceafrica.com/article/heres-how-michael-regan-plans-to-transform-the-epa-as-its-first-black-male-leader12
AMA NUNOO | Staff Writer
March 12, 2021 at 09:34 am

The Senate has confirmed Joe Biden's nomination for the chief administrator of the Environmental Protection Agency (EPA), Michael Regan, on Wednesday. In the agency's 50 years of existence, this confirmation makes Regan the first Black man and 16th administrator to lead the agency.

The EPA's first Black administrator was Lisa Jackson, per Washington Post, and she held the role for four years during President Barack Obama's term in office.

Regan has 20 years of experience working in the environmental protection sector in different capacities, which makes the landslide confirmation by the Senate no surprise — 66 to 34 — with all the Democrats and 16 Republicans voting in his favor.

"We all have a stake in the health of our environment, the strength of our economy, the well-being of our communities, and the legacy we will leave the next generation in the form of our nation's natural resources," he told Senate Environment and Public Works Committee members last month, the Post reports.

President Biden has been extremely vocal about making America and the world more eco-friendly by cutting the country's gas emissions and helping minority and poor communities severely affected by pollution.

The 44-year-old new Chief of EPA, therefore, has a herculean task starting with undoing unfavorable and lax policies implemented by the Trump administration. He pledges to do just that by focusing on "environmental policy impact on poor and minority communities," the New York Times reports.

In the first three years of Trump's presidency, reports said about 700 scientists left the EPA and only half of those vacancies were filled. Regan told Rolling Stone how he plans to restore the EPA. "We have world-renowned experts at EPA," he said. "We should be listening to them, and we will."

"I will be laser-focused on how we limit methane emissions," he said, adding that environmental justice and water quality will be on his list of priorities.

The Goldsboro, North Carolina native developed a love for the environment at a tender age while hunting and fishing with his father and grandfather in the Coastal Plain of North Carolina.

He is the first EPA Administrator to graduate from a Historically Black College and University, North Carolina Agricultural & Technical State University, and has a master's degree in Public Administration from The George Washington University, per the agency's site.

Regan began his career at the EPA working under the administrations of both Bill Clinton and George W. Bush for more than a decade and returns to head the agency in a full-circle moment. He served as the national program manager responsible for designing strategic solutions with industry and corporate stakeholders to reduce air pollution, improve energy efficiency and address climate change.

In 2017, he became the southeast regional director for the Environmental Defense Fund for North Carolina. His focus was on lessening the impacts of climate change on the region and improving air quality in polluted communities.

The family man stood out during his term of office especially in a politically divided country and was praised for being fair to all parties.

Earlier this year, Regan led the North Carolina agency to undertake the biggest coal ash clean-up in the country after a settlement with Duke Energy. Duke Energy had been dumping highly toxic waste which is a by-product of coal in the open air near residential neighborhoods and now they are tasked to collect more than 80 million tons of coal ash and dispose of them properly and safely, so they do not seep into groundwater.

"We're excited to watch him do for the EPA what he did for North Carolina: put people and policy over politics, and work with scientists, stakeholders, lawmakers of both parties, and above all, the most impacted communities, to protect all Americans from polluters and climate change," Dan Crawford, director of governmental relations at the North Carolina League of Conservation Voters, said in a statement Wednesday.

According to NRDC.org, the future of the EPA is in good hands and Regan will serve the people having in mind that everyone in the country "has the right to clean air, clean water, and a healthier life—no matter how much money they have in their pockets, the color of their skin, or the community they live in."

Senate Confirms Biden's Pick to Lead E.P.A.
https://www.nytimes.com/2021/03/10/climate/michael-s-regan-epa-biden.html?auth=login-email&login=email
By Lisa Friedman
Published March 10, 2021Updated March 12, 2021, 3:57 a.m. ET

WASHINGTON — The Senate on Wednesday confirmed Michael S. Regan, the former top environmental regulator for North Carolina, to lead the Environmental Protection Agency and drive some of the Biden administration's biggest climate and regulatory policies.

As administrator, Mr. Regan, who began his career at the E.P.A. and worked in environmental and renewable energy advocacy before becoming secretary of North Carolina's Department of Environmental Quality, will be tasked to rebuild an agency that lost thousands of employees under the Trump administration. Political appointees under Donald J. Trump spent the past four years unwinding dozens of clean air and water protections, while rolling back all of the Obama administration's major climate rules.

Central to Mr. Regan's mission will be putting forward aggressive new regulations to meet President Biden's pledge of eliminating fossil fuel emissions from the electric power sector by 2035, significantly reducing emissions from automobiles and preparing the United States to emit no net carbon pollution by the middle of the century. Several proposed regulations are already being prepared, administration officials have said.

His nomination was approved by a vote of 66-34, with all Democrats and 16 Republicans voting in favor

"There are few leadership roles in the federal government that have greater responsibility for setting environmental goals and climate policies than the Environmental Protection Agency," said Senator Tom Carper, Democrat of Delaware and chairman of the Senate Committee on Environment and Public Works. Mr. Regan, he said, "is the person for the job at this critical moment."

Mr. Regan will be the first Black man to serve as E.P.A. administrator. At 44, he will also be one of Mr. Biden's youngest cabinet secretaries and will have to navigate a crowded field of older, more seasoned Washington veterans already installed in key environmental positions — particularly Gina McCarthy, who formerly held Mr. Regan's job and is the head of a new White House climate policy office.

Those potentially overlapping authorities have already provoked criticism from Republicans, some of whom voted against Mr. Regan's confirmation because they said they did not know who is truly in charge of the administration's climate and environment policy.

"I can't support Secretary Regan when Gina McCarthy is the orchestra leader for the Biden administration," said Senator Shelley Moore Capito, Republican of West Virginia.

But most of the opposition centered on Democratic policy. Senator Mitch McConnell of Kentucky, the Republican leader, called Mr. Biden's agenda a "left-wing war on American energy."

"Mr. Regan has plenty of experience," Senator McConnell said. "The problem is what he's poised to do with it."

In his testimony before the Senate last month Mr. Regan assured lawmakers that when it came to E.P.A. policies, "I will be leading and making those decisions, and I will be accepting accountability for those decisions."

Mr. Regan has a reputation as a consensus-builder who works well with lawmakers from both parties. North Carolina's two Republican senators, Thom Tillis and Richard Burr, voted to support his nomination. Even Senate Republicans who voted against him had kind words.

"I really liked meeting and getting to know Michael Regan," Senator Capito said. "He is a dedicated public servant and an honest man."

But Mr. Regan said he did intend to act aggressively in carrying out Mr. Biden's agenda of fighting climate change.

Precisely what that will look like within the E.P.A., and particularly in the electricity sector, remains unclear, but administration officials have already hinted that they intend to create a new regulation to rein in the second-largest source of United States emissions.

The Obama administration tried to curb carbon pollution from the electricity sector with a regulation called the Clean Power Plan, which would have pushed utilities to move away from coal and toward cleaner-burning fuels or renewable energy. The Trump administration repealed that and replaced it with a far weaker rule that only required utilities to make efficiency upgrades at individual power plants.

The Clean Power Plan rule met resistance at the Supreme Court, but the Trump version was struck down altogether. That combination, Mr. Regan told lawmakers, gives E.P.A. a "clean slate" to move forward. Several administration officials said they expected the agency to roll out a "Clean Power Plan 2.0" in the coming weeks.

Ms. McCarthy has already been in talks with automakers around new vehicle emissions standards, but the proposed new rule itself will also come from E.P.A.

Another expected focus of Mr. Regan will be environmental policy impact on poor and minority communities. He has called environmental justice an issue "that is near and dear to my heart" and told lawmakers he intended to bring on a special adviser and request additional funding to better address what experts have identified as systemic racism and inequity in environmental decision-making.

A Win for Public Health: EPA Breathes New Life into Long-awaited Formaldehyde Study
https://blog.ucsusa.org/genna-reed/a-win-for-public-health-epa-breathes-new-life-into-long-awaited-formaldehyde-study
GENNA REED, SENIOR ANALYST | MARCH 12, 2021, 10:15 AM EST

In a memo sent to senior EPA staff yesterday, the Office of Research and Development (currently led by Jennifer Orme-Zavaleta) announced that its Integrated Risk Information System (IRIS) program will resume the risk assessment for the hazardous air pollutant formaldehyde. It will still need to move forward with a check of the latest literature, peer review, interagency review, and public comment, which will take some time, but it is essential that EPA gets the science right so that it can finally take action to end dangerous exposures to this carcinogen.

Formaldehyde is a colorless, flammable chemical widely used in building materials, medicinal and personal care products, and furnishings. Fumes from these products can be harmful to human health, especially when they accumulate indoors at high concentrations. According to EPA's 2018 National Air Toxics Assessment

(NATA) data, formaldehyde is one of the three air pollutants responsible for over 90 percent of the cancer risk related to air pollution in over a hundred census tracts that have pollution above the 100 per million threshold. Acute exposure can lead to nausea, headaches, and eye, nose, throat and skin irritation, even asthma exacerbation. Chronic exposure has been linked to cancers in humans, including cancers of the nose and throat, lymphomas, and leukemia. In 2004, the International Agency for Research on Cancer concluded that formaldehyde is a human carcinogen, and the U.S. Department of Health and Human Services listed it is as a known human carcinogen in 2011. Despite the large body of scientific evidence on its cancer risk, EPA still only lists formaldehyde as a "probable human carcinogen" (Group B1).

As a result of industry and political interference spanning decades, EPA has been unable to update its own scientific assessment, stalling progress and the potential to better protect the public from this harmful chemical. If it weren't for political interference, at this point in 2021, the formaldehyde assessment that has been supposedly complete since 2017 should have already been through peer review and available to the public. The resulting risk estimate that is likely to acknowledge the cancer risk of inhalation of formaldehyde could have already been influencing regulators' decisions to tighten emissions standards to protect those bearing the brunt of the exposure, which are largely communities of color. At this point the public could have had more trust in the scientific integrity of the EPA had it released this long-awaited and long-suppressed scientific document. We have waited far too long for the EPA to make the updated science on formaldehyde available, and it is welcome news that under the Biden administration, EPA is committing to move forward with this assessment.

A history of political interference in formaldehyde science

At UCS we have been following the formaldehyde assessment saga for a very long time, and today's news is encouraging. Interference and steamrolling progress on this assessment has been taking place since the Obama administration, when extensive lobbying from the American Chemistry Council (ACC) and a review by the National Academies resulted in the reworking of a 2010 draft assessment. The IRIS program had been making slow progress on the draft assessment for years and was supposedly ready to the move to the next stage of peer review and public comment as early as 2017. The assessment then got stuck in the political muck and mire of the Trump administration's chemicals office, led by former ACC staffer, Nancy Beck. In our Disinformation Playbook, we have tracked how the chemical industry, when faced with the truth about the harms of their products, have launched unfair and inaccurate criticism of the IRIS office and campaigns to delay the release of EPA scientific documents to sow disinformation and delay science-based safeguards. Under the Trump administration, government officials with chemical industry ties used this same playbook to undermine the work of their own agencies and sideline advice from career scientists.

The reason Administrator Wheeler gave for suspending the assessment was that it was not a priority of the agency's program areas. Yet, documents we obtained through FOIA revealed the opposite. Scientists from the Office of Air and Radiation division wrote to Jennifer Orme-Zavaleta at the Office of Research and Development (ORD) in 2017: "As you know, we have a strong interest in this review and are anxious to see it completed," she wrote (our emphasis added). "OAR regularly provides input to ORD on which hazardous air pollutants (HAP) the program office believes may be critical in shaping its regulations, and we have consistently identified formaldehyde as a priority. Having a current cancer unit risk estimate for formaldehyde is critical for the agency's air toxics program for use in 1) the National Air Toxics Assessment (NATA), 2) the Clean Air Act (CAA) Section 112 Risk and Technology Review (RTR) rulemakings, 3) evaluation of potential risks from on-road and nonroad mobile sources regulated under relevant sections of the CAA and 4) regional and local-scale risk assessment." Further, a 2019 GAO report revealed that senior officials at EPA interfered with the ability of IRIS career staff to continue work on or issue critical scientific assessments on the health risks associated with exposures to environmental contaminants, including formaldehyde. The GAO report does not name the individuals involved with stalling the assessment releases, but states that they were in leadership positions.

I hope that EPA plans to accept our 2019 request for a scientific integrity investigation, since questions still remain about how former ORD head David Dunlap, who previously worked at Koch Industries—which has a

stake in the chemical's production—delayed his recusal to weigh in on related decisions. We also know ACC was continuing to meet with EPA and lobby hard against making a link between formaldehyde exposure and leukemia, using industry-funded data. The voices of industry should not have been prioritized over the voices of EPA scientists and experts committed to meeting the agency's mission. Ultimately, EPA's scientific integrity policy "prohibits all EPA employees, including scientists, managers, and other Agency leadership, from suppressing, altering, or otherwise impeding the timely release of scientific information," which should have insulated this study from interference. In order to prevent future delay of this study and others, EPA must expose the truth about what occurred and change internal practices to fill in the cracks.

The next piece of the process is important

The output of the IRIS office is not just important for federal policymaking, but its assessments and associated toxicity values are used by state environmental and public health agencies, as well as community groups, to assess and address local risks to public health. This scientific expertise guides action that is essential to protect public health nationwide, especially in communities of color bearing the unacceptable burden of cumulative chemical exposures. The finalization of the formaldehyde assessment should be grounded in the best available science, completed without delay, and promptly incorporated into and relied upon to expediently set health-protective standards.

Biden EPA Ponders 'Hail Mary' Move on Greenhouse Gas Air Limits

https://news.bloomberglaw.com/environment-and-energy/biden-epa-ponders-hail-mary-move-on-greenhouse-gas-air-limits?utm_source=rss&utm_medium=NEVE&utm_campaign=00000178-0e15-d455-aff8-9e75fb830001

Jennifer Hijazi

March 12, 2021, 6:00 AM

The Biden administration likely will face a tough climb in the courts and on the ground if it tries to push for national ambient air limits on greenhouse gases, experts and lawyers say.

Acting Environmental Protection Agency Administrator Jane Nishida wrote last week that the agency "did not fully and fairly assess the issues raised" by a 2009 petition to set National Ambient Air Quality Standards, or NAAQS, for caron dioxide. The standards are the cornerstone of air pollution law under the Clean Air Act.

Then-EPA administrator Andrew Wheeler denied the petition from the Center for Biological Diversity and 350.org on Jan. 19, the penultimate day of Donald Trump's presidency.

Nishida's letter makes no promises beyond reconsidering the petition. But observers have long been split over concerns that the proposed air quality standards for carbon dioxide are too complicated to be pragmatic and would result in heavy legal scrutiny of EPA's authority over greenhouse gases as a criteria air pollutant.

Using national air standards to regulate carbon has been floated as a regulatory option since the George W. Bush years, but has never made it on the books.

"Other approaches will provide greater benefits, faster," said Paul Billings, senior vice president of advocacy for the American Lung Association.

Too Messy?

Regulating carbon emissions for power plants in section 111(d) of the Clean Air Act, for instance, remains a more viable option for clean air experts who see state-by-state NAAQS as too messy of a system to regulate greenhouse gases rooted in the atmosphere all over the U.S.

National air standards for GHGs "would be a real Hail Mary if nothing else is working," University of California-Berkeley law professor Dan Farber said.

Given the complexities, chances are "minuscule" that Biden will set NAAQS limits on carbon after reconsidering the proposal, but the promise to reexamine the issue could be part of a broader messaging strategy, said Jeff Holmstead, a partner at Bracewell LLC who led the EPA's air and radiation office during President George W. Bush's first term.

"Either it was sort of an automatic response to the last-minute Trump decision, or they're sending a signal that they're really open to anything,that they don't want to reject any ideas that environmental groups have about how to deal with climate change," he said.

Legal Hurdles

A 2014 Supreme Court decision on power plant permitting rules offers a clue as to how courts may treat legal brawls over potential carbon air standards.

Justices ruled in Utility Air Regulatory Group v. EPA that even though greenhouse gases are included under the definition of "air pollutant," greenhouse gas regulations aren't automatically triggered every time the Clean Air Act mentions air pollutants.

The decision is a "strong signal" the Supreme Court is unlikely to uphold standards declaring carbon a regulated criteria air pollutant, Farber told Bloomberg Law.

"That's also not even taking into account the fact that the court has gotten more conservative in the meantime," he said.

Complicated Process

Putting national air standards into motion is a lengthy process that's contingent on more than 50 state and tribal plans that take years to implement from proposal to approval. States must then reach "attainment" once the EPA approves plans to control the six regulated criteria air pollutants—a goal that would be difficult to reach for carbon dioxide limits.

But the individual state plans are part of the appeal of the approach for environmentalists who support the carbon dioxide pollutant limits, according to Maya Golden-Krasner, deputy director of the Center for Biological Diversity's Climate Law Institute.

"It requires states to prepare state implementation plans that would operate optimally reduce emissions across all sectors and sources and therefore achieve much more in less time," she said.

But Holmstead said the process is too cumbersome of an undertaking to be an ideal option.

"This would be a huge, huge change in the way EPA authority operates, it would certainly go to the Supreme Court, and I don't think there's any way it would be upheld," he said.

Clean Air Tools

The EPA, under President Joe Biden, withdrew the petition denial on March 4 and plans to continue considering the petition's "important issues" before responding further, an agency spokesperson said in response to the letter.

Regulating carbon under NAAQS harnesses the "most far-reaching tool" under the Clean Air Act, Golden-Krasner noted.

"Existing NAAQS have achieved huge pollution reduction for listed pollutants like ozone, particulate matter, and lead, and has led to trillions of dollars in net economic benefits," Golden-Krasner said in explaining the center's support for this route.

Regardless of the outcome, Biden's decision to reconsider the standards is indicative of how the new administration is balancing risk-taking with more "tailored" approaches reflecting knowledge gained from a decade of regulation turnover, said Hana Vizcarra, a staff attorney with the Harvard Law School's Environmental & Energy Law Program.

"This whole-of-government approach, I think, gives them a little more flexibility to decide where they can push and try something new," she said.

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To contact the editor responsible for this story: Rebecca Baker at rbaker@bloombergindustry.com

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Judge rules Maryland must regulate chicken farm air pollution
https://www.bayjournal.com/news/policy/judge-rules-maryland-must-regulate-chicken-farm-air-pollution/article_a576af78-8328-11eb-8bd9-8b13df23c6d3.html
Jeremy Cox
12 Mar. 2021

A Maryland judge has dealt a blow to the state's poultry industry, ordering regulators to impose limits for the first time on air pollution emanating from the sprawling indoor facilities where chickens spend most of their lives.

Montgomery County Circuit Court Judge Sharon Burrell ruled March 11 that the Maryland Department of the Environment must regulate nitrogen released into the air because some of it falls into waters protected by the federal Clean Water Act, such as the nearby Chesapeake Bay.

There, nitrogen in large enough quantities can wreak havoc in aquatic systems, feeding huge algae blooms. When those blooms die off, it can rob the water of oxygen, creating "dead zones."

The environmental victory could have far-reaching consequences. The U.S. Environmental Protection Agency has resisted setting air emissions standards for industrial-scale animal-feeding operations, citing a lack of data.

Last year, the MDE finalized a revision to the five-year "general discharge permit" governing the facilities, and the EPA accepted the changes.

Maryland's chicken industry is centered on the Eastern Shore, where more than 2,000 chicken houses rise from the flat, rural landscape. Each house is equipped with giant fans that ventilate the gases generated inside. Among them: ammonia, a form of nitrogen.

The Assateague Coastal Trust, an environmental group that has long sought greater scrutiny of the industry, filed the lawsuit last October.

"Today, communities on the Lower Eastern Shore of Maryland can breathe a sigh of relief (literally) knowing Maryland clean water regulations will now better protect the water they drink and the waterways they fish and recreate in," Kathy Phillips, the trust's executive director, said in a statement. "This ruling will work to protect watershed communities, including those communities facing environmental injustices, who will see improved water quality and the co-benefit of reduced air pollution."

MDE officials had argued that forcing the agency to regulate air emissions for the sake of protecting water quality would be onerous for the state as well as for farm operations. Water permit holders — from all industries, not just agriculture — would have to seek new permits or modify existing ones if their facilities vent pollutants into the air, they contended. Air permit holders also might need new approvals if their emissions are found to impact waters.

Burrell's 14-page ruling counters that, unlike those "theoretical" examples, ammonia emitted by chicken houses constitutes a "specific, calculable event that the MDE is obligated to regulate" under the Clean Water Act powers delegated to the state.

The MDE didn't immediately respond to a request for comment for this story.

EPA CONSIDERS COMBINING 2021-22 BIOFUEL BLENDING TARGETS
https://www.newsdakota.com/2021/03/12/epa-considers-combining-2021-22-biofuel-blending-targets/
Posted By: i3gradiopushbin
March 12, 2021 @ 7:34 am
Ag Central News

(NAFB) – The Environmental Protection Agency is mulling over the idea to combine 2021 and 2022 biofuel blending obligations, according to a report by Reuters.

The EPA has in the past combined biofuel targets after missing deadlines, most recently in 2015, when it announced 2014, 2015 and 2016 targets at the same time. Biofuel targets must be published annually under the Renewable Fuel Standard, outlining how many gallons of biofuels like ethanol and biodiesel refineries must blend into fuels.

Trump administration EPA Administrator Andrew Wheeler opted to delay the announcement last year, awaiting action in a Supreme Court case. The RFS has been long plagued by a battle between the oil industry and the biofuels industry.

Ethanol production reached five-year lows last month, following demand destruction from EPA small refinery exemptions and the coronavirus pandemic. However, the industry sees the Biden Administration's priority on climate as an opportunity to include biofuels in climate change policies.

DOJ seeks $3.2M from W. Va coal companies
https://www.avpress.com/business/doj-seeks-3-2m-from-w-va-coal-companies/article_c25feb76-82de-11eb-aced-ebcbe6331690.html
12 Mar. 2021

CHARLESTON, W.Va. (AP) — The US Department of Justice is seeking $3.2 million in penalties from Appalachian coal mines owned by West Virginia Gov. Jim Justice over claims they violated a settlement meant to prevent pollution.

Attorneys with the Justice Department filed a motion in US District Court in Virginia on Thursday asking a judge to order the Republican governor's companies to pay the fine and complete remediation work at mine sites.

The US and several states settled and signed a consent decree with the companies in late 2016 to resolve allegations of Clean Water Act violations from Justice-owned mines in Alabama, Kentucky, Tennessee, Virginia and West Virginia. The Environmental Protection Agency had said Southern Coal didn't submit complete and timely discharge monitoring reports, made unauthorized discharges and wouldn't respond to the EPA's requests for information.

Since then, the Justice Department said in its new filing, the defendants have "a long history of (Clean Water Act) violations and non-compliance with the requirements" of the 2016 agreement.

The companies have paid $2.9 million in penalties to date, according to the new court filing. But the complaint said defendants have not paid nearly $3.2 million in separate fines levied in September 2020 over the failure to submit timely permit applications that led to unpermitted discharges at mine sites in Tennessee and Alabama.

The defendants named in the new filing are Southern Coal Corporation, Premium Coal Company Inc., and Justice Coal of Alabama. A lead attorney for the companies and the governor's office did not immediately respond to emails seeking comment.

Upon taking office in 2017, Justice said his children would run his business empire, but he stopped short of forming a blind trust, saying it was too complicated. Justice has enterprises in hospitality, coal mining and agriculture, many of which have become mired in lawsuits.

EPA selects PUSH Buffalo to receive $200,000 brownfields job training grant to 'build skilled environmental workforce in economically distressed communities'
https://www.wnypapers.com/news/article/current/2021/03/12/145765/epa-selects-push-buffalo-to-receive-200000-brownfields-job-training-grant-to-build-skilled-environmental-workforce-in-economically-distressed-communities
Fri, Mar 12th 2021 11:15 am

On Thursday, the U.S. Environmental Protection Agency announced People United for Sustainable Housing (PUSH) of Buffalo is one of 18 organizations to receive a total of $3.3 million in grants for environmental job training programs across the country.

A press release stated, "Job training and workforce development are an important part of the Biden-Harris administration's commitment to advance economic opportunities and address environmental justice issues in underserved communities.

"PUSH Buffalo will receive a $200,000 grant for its program that trains under- and unemployed workers in Buffalo's communities to be job-ready, find employment and build sustainable careers in fields like environmental remediation, green infrastructure, renewable energy and energy efficiency. This grant builds on one EPA awarded to PUSH Buffalo in 2017 and will prioritize program slots for Buffalo's low-income residents."

Acting EPA Regional Administrator Walter Mugdan said, "EPA's brownfields job training grants enable organizations like PUSH Buffalo to transform lives by providing individuals the opportunity to gain meaningful long-term employment and a livable wage in an environmental field. Organizations like PUSH Buffalo do critical work to bring good paying jobs to their communities that also help make them safer and healthier places to live and work."

Funded through the agency's environmental workforce development and job training (EWDJT) program, these grants will provide funding to organizations that are "working to create a skilled workforce in communities

where EPA brownfields assessment and cleanup activities are taking place. Rather than filling local jobs with contractors from distant cities, these organizations offer residents of communities historically affected by pollution, economic disinvestment, and contaminated brownfields properties an opportunity to gain the skills and certifications needed to secure local environmental work in their communities."

Deputy Director of Administration for PUSH Buffalo Dawn Wells-Clyburn said, "We are so proud to be continuing the work of building an equitable workforce by helping marginalized workers access good green jobs. The support of the EPA will help PUSH Buffalo meet our community's goals for achieving a just economy and resilient community here in Buffalo."

Congressman Brian Higgins said, "PUSH Buffalo has been a powerful force in efforts to build stronger neighborhoods, and the award of this highly competitive grant through the EPA will continue to grow this transformative work. This federal investment has the dual benefit of training residents for the quality, in-demand jobs of today and tomorrow as well as building a cleaner, healthier community."

The release noted "individuals completing a job training program funded by EPA typically graduate with a variety of certifications that improve their marketability and help ensure that employment opportunities are not just temporary contractual work, but long-term careers."

This includes certifications in:
•Lead and asbestos abatement
•Hazardous waste operations and emergency response
•Mold remediation
•Environmental sampling and analysis
•Other environmental health and safety training

Since 1998, the agency's EWDJT program has awarded more than 335 grants. With these grants, 18,541 individuals have been trained and 13,751 have been placed in careers related to land remediation and environmental health and safety, with an average hourly wage of over $14.

The organizations selected for funding plan to train approximately 900 individuals with many of the graduates moving into environmental jobs in their communities. In addition, 60% of these organizations plan to serve this country's veterans.

For more information on the selected Brownfields EWDJT grant recipients, including past grantees, visit https://cfpub.epa.gov/bf_factsheets/index.cfm?grant_type_id=1003&grant_announcement_year=2018. For more information on this, and other types of brownfields grants, visit https://www.epa.gov/brownfields/environmental-workforce-development-and-job-training-ewdjt-grants

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The WorkPlace receives $200K EPA grant to train Bridgeport students in brownfield remediation
https://westfaironline.com/133938/the-workplace-receives-200k-epa-grant-to-train-bridgeport-students-in-brownfield-remediation/
By Kevin Zimmerman
March 12, 2021

Bridgeport's The WorkPlace Inc. is receiving a $200,000 Environmental Workforce Development and Job Training (EWDJT) grant from the U.S. Environmental Protection Agency (EPA).

The WorkPlace is one of 18 grant recipients selected to share $3.3 million to operate environmental job training programs for local citizens across the country.

The grant program advances environmental justice by providing an opportunity for residents historically impacted by brownfield sites to gain training and employment as a result of cleanup activities taking place in their communities.

The WorkPlace's grant will be used to train up to 55 students near the city of Bridgeport in skills needed to work in the environmental remediation field and to assist local economic development. The organization expects to place over 75% of those students in environmental jobs.

The training program includes 222 hours of instruction, including: 40-hour HAZWOPER; OSHA 30-hour Construction Industry Outreach; C.T. Asbestos Supervisor; C.T. Lead Worker; Lead Safety RRP; Deconstruction; Aboveground/Aboveground Storage Tanks; Forklift Safety Awareness; and Mold Identification and Remediation.

"This award supports innovative solutions to get people back to work with career opportunities in environmental development," said Joseph Carbone, president and CEO of The WorkPlace. "A future with employment gives hope to individuals to overcome barriers and become part of a skilled job force that can clean up contamination and foster a sustainable future for our community."

"This investment will help prepare people for well-paying jobs in fields that reduce environmental contamination and provide more sustainable futures for the communities most affected by solid and hazardous waste contamination," said EPA New England Acting Regional Administrator Deborah Szaro.

"Members of the Bridgeport community will learn critical skills and receive the certifications necessary to access well-paying jobs that need to be filled right in their community. It is essential for our economic recovery, that we continue to support investments in workforce development and job training," added U.S. Senator Richard Blumenthal (D-Connecticut).

"Investing in our community by cleaning up contaminated brownfield sites in Southwest Connecticut boosts our economy," remarked U.S. Rep. Jim Himes (D-CT 4th). "With infrastructure investments on the horizon, it's important to have a well-trained workforce to clean these sites and create a more sustainable future."

The WorkPlace has previously been awarded EPA Brownfields Job Training grants six times from 2001 to 2014, and with the new grant will have received a cumulative total of over $1.4 million.

EPA fines Hess for Tioga Gas Plant violations
https://bismarcktribune.com/epa-fines-hess-for-tioga-gas-plant-violations/article_ac73ee92-dbbb-5c87-b8ca-53bb19ad2f87.html
Amy R. Sisk
12 Mar. 2021

The U.S. Environmental Protection Agency has fined Hess Corp. and two related companies $195,000 for violations of the federal Clean Water Act at the Tioga Gas Plant.

The violations stem from a 2015 EPA inspection at the Hess facility in Williams County. Inspectors found multiple deficiencies, including inadequate containment for tanks, containment ponds and small oil storage containers. The EPA also found several spill prevention and response plans insufficient. A spill could affect a tributary of nearby Paulsen Creek, which flows into the White Earth River and ultimately to White Earth Bay on Lake Sakakawea, the agency said.

"Adequate spill prevention and response plans include important requirements and measures that protect public health and the environment," said Suzanne Bohan, director of EPA Region 8's Enforcement and Compliance Assurance Division. "EPA will continue to make sure facilities like the Tioga gas plant comply with the federal requirements that safeguard our communities and our rivers and streams."

Hess has since fixed the problems in its spill plans, according to EPA.

"The issues outlined by the EPA were identified several years ago and do not relate to any actual spill," Hess spokesman Rob Young said. "In response though, Hess has since updated and and enhanced our systems and processes at the Tioga Gas Plant, including the development of enhanced spill prevention plans."

The penalty will go into the Oil Spill Liability Trust Fund, which is used by federal agencies to respond to spills of hazardous substances.

EPA settles with North Dakota gas plant over CWA violations
https://www.watertechonline.com/industry/oil-gas/article/14199226/epa-settles-with-north-dakota-gas-plant-over-cwa-violations
Company agrees to penalty associated with inadequate spill prevention and response plans
Mar 12th, 2021

The U.S. Environmental Protection Agency (EPA) recently announced a Clean Water Act (CWA) settlement with Hess Corporation, Hess Midstream Operations LP, and Hess Tioga Gas Plant LLC (Hess), in which the companies have agreed to pay $195,000 for alleged Clean Water Act violations associated with the operation of the Tioga gas plant facility in Williams County, North Dakota.

On Oct. 7, 2015, EPA conducted an inspection of the Tioga gas plant and found multiple deficiencies, including: inadequate secondary containment for the two largest tanks and containment ponds; no containment for two produced water tanks and for other smaller oil storage containers; and an inadequate Spill Prevention Control and Countermeasure Plan (SPCC) plan. In addition, EPA found that Hess failed to prepare an adequate Facility Response Plan (FRP) for the plant demonstrating the facility's preparedness to respond to a worst-case oil discharge. Hess has since remedied the deficiencies in its SPCC Plan and FRP.

Discharge from the facility has the potential to impact an unnamed tributary of Paulsen Creek, a tributary to the White Earth River. EPA's analysis indicates potential impacts associated with a worst-case spill scenario from this facility could extend 61 miles to White Earth Bay on Lake Sakakawea.

"Adequate spill prevention and response plans include important requirements and measures that protect public health and the environment," said Suzanne Bohan, director of EPA Region 8's Enforcement and Compliance Assurance Division. "EPA will continue to make sure facilities like the Tioga gas plant comply with the federal requirements that safeguard our communities and our rivers and streams."

The Oil Pollution Prevention requirements of the Clean Water Act are intended to prevent discharges of oil and facilitate responses if discharges occur. All facilities with 1,320 gallons of oil that have the potential for a spill to reach waters of the United States are required to have SPCC Plans. Facilities with storage capacity of one million gallons or more, and with the potential to impact fish, wildlife and sensitive environments, are also required to meet FRP requirements. The Oil Pollution Prevention requirements of the Clean Water Act are administered by the EPA and the Coast Guard.

The $195,000 penalty will be deposited into the Oil Spill Liability Trust Fund, a fund used by federal agencies to respond to discharges of oil and hazardous substances. Since the 2015 inspection, Hess has submitted SPCC

and FRP plans that satisfy regulatory requirements and has demonstrated the ability to effectively implement its FRP.

For more information on the Clean Water Act, visit EPA's compliance web page:
http://www.epa.gov/compliance/civil/cwa/index.html
For more information on SPCC and FRP regulatory requirements visit EPA's compliance web page:
http://www.epa.gov/oil-spills-prevention-and-preparedness-regulations

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New York lawsuit against EPA over GE's Hudson River cleanup dismissed
https://poststar.com/news/state-and-regional/new-york-lawsuit-against-epa-over-ges-hudson-river-cleanup-dismissed/article_83b2200e-cd99-52d5-9467-d24540562e58.html
12 Mar. 2021

ALBANY — A federal judge on Thursday dismissed a lawsuit from New York state against the federal Environmental Protection Agency over its 2019 decision that General Electric had completed a Hudson River dredging remediation project.

The Times Union of Albany reported U.S. District Court Judge David Hurd said the state's suit came too late in the process and was "based on improper theories."

The EPA in April 2019 had issued a certificate of completion to Boston-based GE in connection to a project to remove polychlorinated biphenyls, or PCBs, from the river sediment.

PCBs, used as coolants and lubricants in electrical equipment, were banned in 1977, but prior to that GE factories had discharged more than 1 million pounds (450,000 kilograms) of them into the river.

New York officials and environmentalists condemned the EPA's decision, saying contaminant levels were still too high and that the agency should have withheld the certificate and asked for more dredging.

The state filed its lawsuit in August of that year. In a statement, the state Department of Environmental Conservation said it was considering a possible appeal of the decision.

GE issued a statement saying the decision was being reviewed and that it would "continue to meet its commitments to EPA and New York State on Hudson River-related projects."

Water Restored, But Most of Jackson Still Under Boil Notice
https://www.jacksonfreepress.com/news/2021/mar/12/water-restored-most-jackson-still-under-boil-notic/
By Leah Willingham, Associated Press
Friday, March 12, 2021 9:36 a.m. CST

JACKSON, Miss. (AP) — Most people in Mississippi's capital now have running water, more than three weeks after the majority of taps in the city of 161,000 went dry during a winter storm. Still, officials said Thursday that thousands will likely remain under a boil-notice into next week.

"Based off of what we're seeing right now, checking fire hydrants, checking pressure, we do believe that the connections on the city service right now should have water," Public Works Director Charles Williams said during a briefing.

Williams said there still might be isolated pockets of Jackson with low water pressure because of elevation and distance from the water treatment facilities. Overall, however, he said he's feeling optimistic.

Residents have been boiling water to cook, clean and brush their teeth since a winter storm passed through the region Feb. 15 and froze machinery at one of Jackson's water treatment plants.

Jackson on Wednesday received preliminary clearance to lift the boil-water notice on its 16,000 well water connections. The city has around 43,000 surface water connections still under advisory.

The city has begun testing the water, and Williams said officials hope to have samples they can give the state Health Department by the end of the weekend. The quality of those samples will determine whether the boil advisory can be lifted.

For Jackson, getting water pressure back and the boil advisory lifted are only the first steps to addressing deeper issues with the water system.

Mayor Chokwe Antar Lumumba said the crisis has been caused in part by decades of neglect of aging infrastructure. Parts of Jackson's water system are a century old, he said.

A major factor affecting the city's ability to update its system has been a rapidly declining tax base due to "white flight." Jackson's tax base began crumbling decades ago, starting after the integration of public schools.

Voters in 2014 overwhelmingly approved an extra 1% sales tax for infrastructure repairs, but the $15 million a year raised is only a fraction of what Jackson needs. Lumumba said close to $2 billion is required to modernize the water system and other infrastructure.

A week ago, the Democratic mayor wrote a letter to Republican Gov. Tate Reeves and other officials to request $47 million in state and federal funding to begin repairing the water system.

Since then, the mayor and other city leaders have begun meeting with legislative leaders to discuss options.

"There were deficiencies at the plant prior to the storm that we have been working with the EPA on, we want to try to get those addressed if we get funding and we also want to make improvements in the distribution system," Williams said Thursday.

"We believe that working those two areas right there will help us consistently keep the pressure up where it needs to be," he continued.

Williams said officials are hoping for federal COVID-19 relief funds or other appropriations so they can repair wastewater collection and water distribution systems.

"The work does not stop right now," Williams said. "It's just now beginning."

Message

From: Gibson, Neshawne [Gibson.Neshawne@epa.gov]
Sent: 1/29/2021 5:36:19 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips January 29, 2021 (morning edition)

Daily News Clips January 29, 2021 (**morning edition)**

Administrative
Inside EPA: EPA Selects Environmental Justice Expert For Deputy Waste Office Role
Newsmax: Blackburn Accuses Biden EPA Appointee of Breaking Law

PFAS
Inside EPA: EPA Plans To Seek Comprehensive BOSC Review Of PFAS Research Plan

Science
Bloomberg: Court Order Widens EPA Options to Drop 'Secret Science' Rule (2)
Government Executive: Judge Gives Biden Path to Quickly Repeal Trump's 'Secret Science' Rule
Reuters: Judge postpones 'secret science' rule, harbors doubts on rule's validity

Superfund
Bloomberg: Atlantic Richfield Agrees to $24 Million Montana Smelter Cleanup

Water
CBS7: Texas prepares to test for lead in schools' drinking water for the first time
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EPA Selects Environmental Justice Expert For Deputy Waste Office Role

https://insideepa.com/daily-news/epa-selects-environmental-justice-expert-deputy-waste-office-role

By *Suzanne Yohannan*
January 28, 2021

EPA has selected Carlton Waterhouse, a Howard University law professor with extensive environmental justice credentials, to be the agency's deputy assistant administrator for the Office of Land & Emergency Management (OLEM), sources say.

Waterhouse, who has previous work experience at EPA, on Feb. 1 is slated to join the agency in the number two political position at OLEM, which does not require Senate confirmation, these sources say.
He is an international expert on environmental law and environmental justice, currently teaches environmental, property and administrative law at Howard University Law School and is building the school's Environmental Justice Center, according to his Howard University biography.

Waterhouse's selection to be the deputy assistant administration at OLEM means he will help oversee the agency's Superfund program as well as cleanup and permitting programs that fall under the Resource

Conservation & Recovery Act and its programs covering emergency management, underground storage tanks, brownfields and federal facilities restoration and reuse.

His selection is in stark contrast to his predecessors during the Trump administration at both the political deputy and assistant administrator posts -- both of whom previously served as corporate counsel to chemical companies.

Appointees who take the top jobs in OLEM will likely be under pressure to boost the Superfund program's decades-long flat budget. While a former official says funding for the program has been problematic for years, during the Trump administration, it was revealed last year that EPA's backlog in funding new construction work at Superfund sites had grown to its highest level yet, at 34 unfunded construction starts in fiscal year 2019, prompting backlash from Democratic lawmakers.

It was unclear at press time whether President Joe Biden will also consider Waterhouse for nomination to the role of OLEM assistant administrator that leads the office, which does require Senate confirmation.

Sources have told *Inside EPA* that the recently named principal deputy assistant administrators for other program offices already working at the agency, such as the water and air offices, are expected to be nominated for assistant administrator positions requiring Senate confirmation in their respective areas.

The appointments to positions not requiring Senate confirmation allows them to immediately begin work on implementing the administration's agenda and undoing Trump policies, sources have said.
A former EPA official who held a Senate-confirmed position has noted, "The deputy position gives them certainty of employment while they navigate the confirmation process," as well as being able to act as a deputy and participate in deliberations internally.

EPA did not respond to a request for comment on Waterhouse by press time.

Waterhouse's Background
Waterhouse is a Fulbright research scholar, on the Environmental Law Institute board and is publishing a book with Cambridge University Press that "explores the historic and contemporary role of the United States Supreme Court in maintaining racial hierarchy," the biography says.

He also "recently testified on the importance of reparations for African Americans before the inter-American Commission on Human Rights of the Organization of American States," it says.
Waterhouse previously worked at EPA following law school, serving in both the Office of Regional Counsel in Region 4 in Atlanta, GA, and at the Office of General Counsel at EPA's headquarters, his biography says.

At EPA, "he served as the chief counsel for the agency in several significant cases and as a national and regional expert on environmental justice, earning three of the Agency's prestigious national awards," it says.

While at EPA, he was responsible for "enforcement actions under numerous environmental statutes, the development of regional and national policy on Environmental Justice and the application of the Title VI of the Civil Rights Act of 1964 to the EPA permitting actions," it says.

He has also previously served on an advisory panel to the U.S. Commission on Civil Rights, it says.

Blackburn Accuses Biden EPA Appointee of Breaking Law

https://www.newsmax.com/politics/blackburn-epa-hoffer-environment/2021/01/28/id/1007723/

By Brian Trusdell

Thursday, 28 January 2021

(Jason Andrew-Pool/Getty Images)

Tennessee Sen. Marsha Blackburn has accused one of President Joe Biden's appointees to the Environmental Protection Agency of potentially violating the law by requesting the Department of Justice halt all litigation involving the EPA undertaken during the Trump administration.

The 68-year-old Republican has written to the EPA Inspector General Sean O'Donnell and Comptroller General Gene Dodaro, who also heads the Government Accountability Office — Congress' investigative arm, to probe the actions of EPA Principal Deputy General Counsel Melissa Hoffer.

Blackburn encouraged them to investigate Hoffer for "violations of the Federal Vacancies Reform Act of 1998 (FVRA) and other potential violations of ethics rules."

"On her first day on the job, Ms. Hoffer swiftly sent a memorandum to the U.S. Department of Justice (DOJ) requesting that the department's Environment and Natural Resources Division attorneys 'seek and obtain abeyances or stays of proceedings in pending litigation seeking judicial review of any EPA regulation promulgated between January 20, 2017, and January 20, 2021,'" Blackburn wrote in her letter.

"Ms. Hoffer electronically signed the letter in her purported capacity as EPA's Acting General Counsel. In her haste to deliver her message, Ms. Hoffer neglected to acknowledge that the Acting General Counsel role is vacant, and she only serves in the inferior role of Principal Deputy General Counsel, as confirmed by EPA's current organizational chart."

Blackburn claimed that Hoffer would only have the authority to ask the Justice Department to take the actions she requested if she was designated as the acting general counsel, had already been confirmed by the Senate in another position at the EPA and was designated by Biden — or someone at the EPA Biden had already appointed — to the role.

"It does not appear she can hold the position through any of these three paths," Blackburn wrote. "She was not the 'first assistant' when the vacancy arose; she had not been serving in a Senate-confirmed office; and she had not been employed by any other EPA component in the year prior to the vacancy.

"And, if the President has not directed Ms. Hoffer to serve as the Acting General Counsel under one of these scenarios, she may not take it upon herself to install herself into a position the Senate has not confirmed."

EPA Plans To Seek Comprehensive BOSC Review Of PFAS Research Plan

https://insideepa.com/daily-news/epa-plans-seek-comprehensive-bosc-review-pfas-research-plan

By *Lara Beaven*
January 28, 2021

EPA's research office is planning to ask its external advisory panel later this year to review the agency's research plan for addressing per- and polyfluoroalkyl substances (PFAS) in a variety of media, with the agency hopeful it will have some screening results by then to guide risk assessment as well as some data on PFAS destruction technologies.

Bruce Rodan, the associate director for science for the Office of Research and Development (ORD), approached the Board of Scientific Counselors (BOSC) executive committee at its Jan. 27 meeting about a possible PFAS review in "late summer."

Rodan said that instead of presenting charge questions to one of BOSC's subcommittees first -- the usual process for BOSC action -- EPA wants the review to start with the executive committee because the research plan is so broad and touches on multiple media. For example, he said, questions about PFAS in biosolids, or treated wastewater sludge, involve issues usually overseen by three different BOSC subcommittees: Safe and Sustainable Water Resources (SSWR), Sustainable and Healthy Communities, and Air and Energy.

EPA's PFAS action plan includes high throughput testing of over 100 PFAS, which is intended to provide a more complete understanding of PFAS toxicity for a large set of chemicals without conventional toxicity data and allow prioritization of actions to potentially address groups of PFAS, according to the plan.

Rodan said the high throughput testing, which was slowed last year by the COVID-19 pandemic, should be completed by the summer.

Additionally, the agency expects to have completed some research on PFAS destruction technologies by then, he said.

BOSC members were receptive to the idea of a broad PFAS review, with Joseph Rodricks, principal with Ramboll Environ, noting that addressing PFAS "is one of the most complicated issues."
BOSC Chairman Paul Gilman, chief sustainability officer with Covanta, said it seems likely the executive committee would take a first look at the issue but in the longer run, the discussions might need to take place in the subcommittees.

Rodan emphasized that EPA would like the review and recommendations to come from the executive committee in order to keep the subcommittees free to provide advice on non-PFAS issues, which are also important to the agency.

Finalizing Draft Reports
The Jan. 27 meeting also included the executive committee agreeing by consensus to finalize draft reports from the SSWR panel and the Homeland Security Subcommittee, with some minor changes to ensure consistency in formatting.

The draft final report from the SSWR Subcommittee largely reflects discussions in subcommittee meetings last fall, where panel members praised the agency's approach to microplastics research but sought to redirect some aspects of research connected with mapping waters subject to the Clean Water Act and revising recreational water quality criteria.

The SSWR report makes three recommendations, starting with saying that measurement methods to characterize microplastics is the appropriate starting point for research but that looking forward, EPA should begin work now towards developing a strategy for incorporating both environmental and human health effects into the next strategic research action plan for SSWR.

On mapping waters, the report "recommends the use of probabilistic metrics as a more accurate way to represent 'real world' hydrological conditions, to inform discrete classification approaches," and encourages EPA to quantify uncertainties in existing regional datasets on waters and wetlands as well as their applications. "This will help with research prioritization and provide a more quantitative way to communicate success, progress, and key limitations among stakeholders," the report says.

On water quality criteria, the report says that while all of the research EPA has proposed is appropriate, "the research focus that has the most significant opportunity for impact and should be prioritized is the further development of methods for the detection and quantification of coliphages as indicators of fecal contamination in surface waters."

The Homeland Security report includes multiple recommendations dealing with cybersecurity at water utilities, technology to decontaminate water after an unexpected contamination event, and to examine the fate of priority pathogens in wastewater collection system infrastructure and in wastewater treatment plants. The report also includes recommendations related to oil spill remediation research.

Specifically, the report calls on EPA to increase the focus on cybersecurity research; prioritize consequence research and research on vulnerabilities in drinking water system security and system elements common to drinking water and wastewater systems; and leverage investments by other federal organizations and the private sector to customize sensors for priority molecules for deployment in systems critical to the water resources portfolio.

Other recommendations call for EPA to develop a broad end-user stakeholder involvement process so that researched treatment technologies have a better chance of being used for actual emergencies and to better understand the fate and transport of a contaminant that is discharged from a drinking water treatment plant into the sewer system.

EPA should also improve the connection between pilot scale studies and field studies by partnering with municipalities researching priority pathogens in full scale operating wastewater systems, and the agency should increase research into the nature and extent of stormwater-related releases of priority pathogens in untreated sewage from treatment plants in natural disasters to address a limitation of the existing research portfolio, the report says.

Oil Spills

Regarding oil spills, the report recommends EPA establish a working group to identify and eliminate institutional barriers to procuring reference oils used for product testing used to support the maintenance of the National Oil and Hazardous Substances Pollution Contingency Plan Product Schedule, which lists commercially available spill-treating agents for oil spill response operations.

EPA also asked for recommendations on how to expand or improve experiments on oil behavior and the impact of oil on ecosystems.

And the report calls for the agency to establish a task force with a variety of stakeholders to identify and eliminate barriers to the timely acquisition of small amounts of oils, fuels, and related materials at reasonable cost for research purposes, as well as strengthening the relationship between EPA researchers and product users.

Furthermore, EPA should identify and address priority gaps in research and products for effective handling of spills to inland freshwaters, the report says.

Judge Gives Biden Path to Quickly Repeal Trump's 'Secret Science' Rule

The EPA rule faced criticism for placing restrictions on the scientific research career employees can use.

https://www.govexec.com/management/2021/01/judge-gives-biden-path-quickly-repeal-trumps-secret-science-rule/171709/

BY ERIC KATZ
JANUARY 28, 2021

The Biden administration can now quickly do away with a controversial rule that limited the research some federal employees can use when conducting their work, after a federal judge ruled Trump officials improperly rushed it through.

The controversial Strengthening Transparency in Regulatory Science rule, colloquially referred to as the "secret science" rule by its supporters, was finalized by the Trump administration's Environmental Protection Agency just two weeks before it left office. A federal judge in Montana issued a summary judgment on Wednesday evening finding the administration did not sufficiently justify why the rule merited a rushed implementation timeline. First proposed in 2018, the rule was met with significant pushback from critics who said it would improperly prevent EPA employees from using legitimate scientific research.

The rule limits agency employees' ability to use data that is not fully available to the public. Opponents of the plan have argued that is often the case data is not public due to privacy concerns of individuals in testing and surveys. Lawmakers and thousands of commenters on the rule called it an attack on science that could have a chilling effect on career federal employees working on regulatory and enforcement issues. Former EPA Administrator Andrew Wheeler defended the rule as a pro-transparency effort that would give the public more confidence in the agency's regulatory actions.

The rule now faces an uncertain fate, as President Biden has paused all regulatory actions pending on Jan. 20 for review by his administration. Biden had already identified the "secret science" rule for review, one of dozens of such administrative actions now under the microscope at EPA. Wheeler and the Trump administration had sought to avoid that fate for the rule, saying it was an internal issue that amounted to "federal housekeeping" and therefore could go into effect immediately when EPA attempted to finalize it on Jan. 6. Any finalized rule requires a much more time-consuming and labor-intensive process for repeal.

The judge dismissed that argument from Trump's EPA, saying the policy amounted to a "substantive rule" and thus required 30 days before implementation as spelled out in the Administrative Procedures Act. The judge, Brian Morris, said a "housekeeping" rule would amount to "nuts-and-bolts procedural guidelines," but the secret science regulation makes a determination "of how the agency should weigh particular scientific information" and deals with "outcomes rather than process." Absent intervention from the Biden administration, the rule would now go into effect on Feb. 6.

Ben Levitan, a senior attorney at the Environmental Defense Fund, which brought the lawsuit against the rule, said the judge's finding undercuts the rule's legal basis and vowed to keep fighting until it is formally rescinded.

"The Trump administration broke the law by issuing a harmful rule to censor life-saving medical science, and broke the law again by trying to make the rule immediately effective," Levitan said. "The Censored Science Rule weakens EPA's ability to protect Americans from dangerous pollution, toxic chemicals and other threats."

An EPA spokesperson did not say whether the agency would revoke the rule, noting only that it was under review.

"EPA is committed to making evidence-based decisions and developing policies and programs that are guided by the best science," the spokesperson said.

Jennifer Orme-Zavaleta, a career EPA scientist currently serving as acting assistant administrator for the Office of Research and Development and the agency's acting science advisor, added EPA has a robust scientific integrity program.

"It is essential that the environmental policies, decisions, guidance, and regulations that impact the lives of Americans are informed by the best available science," Orme-Zavaleta said. "EPA will remain committed to ensuring that the Agency rests upon a strong foundation of science."

Biden has made clear he will aim to give career federal scientists the ability to conduct their work without political interference, and issued a memorandum to that effect on Wednesday.

Dan Costa, former national program director for EPA's Air, Climate and Energy Research Program who retired in 2018, said he has already received emails from his former colleagues celebrating the judge's decision.

"It pulls the bottom out of all the regulatory and science decisions at the agency," Costa said of the rule. "I know everybody is breathing a sigh of relief on this." He cautioned, however, that relief could be temporary as it is likely "only a matter of time" until another administration seeks to reimplement the rule.

This story has been updated with comment from EPA.

Judge postpones 'secret science' rule, harbors doubts on rule's validity

https://today.westlaw.com/Document/I8b9e12b061a611ebb6e6b72c09f3144a/View/FullText.html?transitionType=SearchItem&contextData=(sc.Default)

By Sebastien Malo
January 28, 2021

(Reuters) - A federal judge in Great Falls, Montana has ruled that the Trump administration was wrong to fast-track a final rule that limits what scientific research the Environmental Protection Agency can use to formulate regulations, adding his findings cast doubt on the so-called "secret science" rule's legality.
Chief U.S. District Judge Brian Morris late on Wednesday sided with plaintiffs Environmental Defense Fund (EDF), the Montana Environmental Information Center and others in their lawsuit filed Jan. 11 against the EPA, concluding that the agency violated the Administrative Procedure Act (APA) by making the rule effective immediately upon its publication on Jan. 6, rather than 30 days after. The judge reasoned that the EPA unlawfully circumvented the APA's month-long notice requirement by casting the rule as procedural rather than a substantive one.
EDF senior attorney Ben Levitan told Reuters: "The Trump administration broke the law by issuing a harmful rule to censor life-saving medical science, and broke the law again by trying to make the rule immediately effective."
The EPA did not immediately comment.
The "Strengthening Transparency in Regulatory Science" rule provides that the EPA can no longer rely on scientific research that is underpinned by confidential medical and industry data when crafting regulations.
In his ruling, Morris said the agency wrongly issued the rule as a procedural one under a "housekeeping" statute, a move that had the effect of exempting it from the APA's 30-day notice requirement for final substantive rules.
The judge said the rule was, in fact, a substantive one because it lacked the housekeeping characteristics of procedural ones, and rather made a substantive determination that "narrowly limits the agency's discretion."
On occasion, substantive rules can be made effective less than 30 days after publication if a "good cause" is established.
But Morris said that EPA's "good cause" argument - that the rule was crucial in ensuring transparency and boosted confidence in the agency's decisions - fell short.
"EPA failed to describe the crisis of 'confidence' it sought to address," he said.
Wednesday's summary judgment was limited to the plaintiffs' single count on the timing of the rule's effectiveness. The court has yet to issue a decision on a second count that alleges that the rule itself is unlawful.
But Morris said in his ruling that his "determination that the Final Rule represented a substantive rule rather than a procedural rule casts into significant doubt whether EPA retains any legal basis to promulgate the Final Rule."
The case is Environmental Defense Fund et al v. U.S. Environmental Protection Agency et al, U.S. District Court for the District of Montana, No. 4:21-cv-00003.
For Environmental Defense Fund et al: Deepak Gupta of Gupta Wessler
For Environmental Protection Agency: Joshua Edward Gardner
with the U.S. Department of Justice

Texas prepares to test for lead in schools' drinking water for the first time

https://www.cbs7.com/2021/01/29/texas-prepares-to-test-for-lead-in-schools-drinking-water-for-the-first-time/

By Erin Douglas
Jan. 29, 2021

In Texas, it will be the first time the state's roughly 25,000 schools and child care facilities will undergo mandated water inspections for lead and copper — the state did not previously have any testing requirement.(Allie Goulding/The Texas Tribune)

TEXAS TRIBUNE - Texas will soon begin a program to test drinking water in thousands of elementary schools and child care facilities across the state following an update to federal standards on lead and copper exposure.

The change comes in the aftermath of the Flint, Michigan, water crisis that began in 2014. Michigan had switched the community's water source to the Flint River but failed to properly treat the water to ensure it did not corrode the pipes. Lead and other contaminants leached into the predominantly Black community's water supply as a result, a problem that went ignored for more than a year.

In one of the last actions by a Trump-led Environmental Protection Agency, the December update to the 1991 federal rule on reducing lead and copper in drinking water — which hadn't been updated in decades — requires water utilities to test water at elementary schools and child care facilities. The rule also lowers the threshold for doing corrosion control treatments on pipes and replacing lines that contain lead.

In Texas, it will be the first time the state's roughly 25,000 schools and child care facilities will undergo mandated water inspections for lead and copper — the state did not previously have any testing requirement. Young children are particularly vulnerable to the health effects of lead poisoning on the brain and nervous system, according to the EPA. Lead exposure in children is known to cause slowed growth, behavior and learning problems, difficulty hearing and lower IQs.

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The Texas Commission on Environmental Quality, the state's environmental agency, at times assisted school districts in testing water in the past, but only if the school district requested help, said Toby Baker, the agency's executive director.

Now, the agency will be responsible for overseeing a plan to test tens of thousands of water systems that serve children throughout the state over the next three years.

That means Texas parents and guardians will get information on whether the water in their child's school or care facility contains unsafe levels of lead. But it will take time and money to correct any problems discovered through testing — details the state is still working out.

"At this early stage, TCEQ is still evaluating the new requirements of this complex rule and has not fully determined yet how to implement the rule as revised," said Gary Rasp, a spokesperson for the TCEQ. "TCEQ is not aware of any guidance provided by EPA to the states."

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To comply with the testing requirement, the TCEQ requested $8 million from the Legislature this session to create a program to test water in tens of thousands of schools and child care facilities and oversee corrective actions by water systems. The current Senate and House budgets proposed for the state include $7.1 million for the program.

The EPA rule requires community water systems to sample 20% of elementary schools and 20% of child care facilities per year — full implementation of the rule in Texas will be required by January 2024.

Baker said that if the Legislature cannot help finance the initiative, the agency will be forced to divert other resources to the effort since testing is required by the EPA.

"We feel this is an unfunded federal mandate," Baker said. "We don't disagree with the rule; we have needed this for a while. But, it's quite an expensive undertaking for the state."

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Baker said in addition to requesting money from the Legislature, the agency will continue to ask the federal government to make funding available for testing. He said the TCEQ will need to create a new database, design a system for monitoring and hire new positions at the agency to carry out the mandate.

Testing water and correcting lead levels can be an expensive and time-intensive task, experts said, because the problem is so widespread and can occur from many different sources, particularly in complex facilities like schools. Lead usually enters drinking water through lead-based pipes or plumbing — which were used for decades before being banned in the 1980s.

"It is a legacy problem because there used to be a time when lead was not controlled as tightly as it is now," said Gregory Korshin, a professor of civil and environmental engineering at the University of Washington. "Everything that was installed years ago is still there, and it's very difficult to correct it."

The EPA estimates that drinking water can make up 20% or more of a person's total lead exposure. And identifying which component of a water system is the source of contamination can be difficult — and expensive.

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"Every single case is different," Korshin said. "The source of the lead might be quite unpredictable. It's a very complicated issue to address."

After the Flint water crisis gained national attention, at least 17 Texas school districts proactively tested drinking water for lead, according to data compiled by Environment Texas, an Austin-based nonprofit. Of the more than 1,000 schools in those districts, 13% found concentrations of lead above the federal threshold for corrective action.

Fort Worth Independent School District, for example, identified 60 schools with levels of lead above that threshold during its testing initiative in 2016. After testing, the school district was able to remove or replace sources of lead contamination, such as old-style water fountains, according to a press release at the time.

The EPA rule sets a threshold of 15 parts per billion of lead in water to take corrective action, including replacement of water service lines over a number of years, and a lower "trigger" threshold of 10 parts per billion of lead to require water systems to take steps to reduce lead in the water.

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While scientists agree that no level of lead in the body is safe for children, EPA regulators countered that the systems with the highest concentrations should be prioritized.

"Setting a lower trigger level would substantially increase the number of water systems required to obtain review," the EPA wrote in a response to public comments. "It is not practicable for this significant number of water systems to obtain state review and approval."

Environmental groups maintain that the threshold for intervention is still too high. They also said Texas will need significant resources, money and stricter standards in order to prevent children from being exposed to lead.

Even among schools that voluntarily tested and corrected significant sources of lead exposure, many still have some level of lead in the water, said Luke Metzger, executive director of Environment Texas. He said the Legislature should set a lower standard for intervention.

"There are thousands of schools in the state that we don't even have information on," Metzger said. "The $7 million is a good start, but that probably won't go as far as needed."

Court Order Widens EPA Options to Drop 'Secret Science' Rule (2)

https://news.bloomberglaw.com/environment-and-energy/court-order-gives-epa-more-options-to-drop-secret-science-rule

By **Stephen Lee**

Jan. 29, 2021

- Federal decision opens several pathways for Biden administration
- Regulatory scholars see no harm in trying all options

A federal court decision delaying the effective date of the EPA's science transparency rule gives the Biden administration a pathway to unravel it, including the use of the same procedural tool the Trump administration team used to write it, legal scholars say.

The U.S. District Court for the District of Montana said on Wednesday that the Environmental Protection Agency hadn't justified its decision to put the rule in effect right after its publication in the Federal Register—instead of after 30 days, as is standard practice. That created an opportunity for the Biden administration to try

sweeping the rule into a Jan. 20 memo that pauses all Trump-era rules that hadn't taken effect by that date, said Amit Narang, a regulatory policy expert with the watchdog group Public Citizen.

The memo tells agencies to consider postponing Trump-era rules for 60 days, and possibly open a 30-day comment period to rethink them.

The Strengthening Transparency in Regulatory Science (RIN:2080-AA14) rule limits the EPA's ability to write regulations that are unpinned by scientific research that can't be reproduced or is based on underlying data that isn't public—seen by critics as a bid to block tough new environmental regulations

Sidney Shapiro, an administrative law professor at Wake Forest University, said it's possible that freezing the rule would be challenged in court, since the executive order technically applies to rules that haven't taken effect. The EPA rule had already taken effect, kicking in on Jan. 6.

Still, that doesn't mean the Biden EPA shouldn't try—then see if anyone tries to sue, Shapiro said.

"It seems to me the best strategy for them is throw everything against the wall and try to get rid of it one way or another," he said.

Asking for More Time

Jonathan Martel, a partner at Arnold & Porter Kaye Scholer LLP, added that, because the Jan. 20 memo is only a memo, it's not subject to the same rigorous standards of interpretation as a statute or regulation.

"A more natural reading of the regulatory freeze memo is that it would apply," Martel said.

Whether the Biden administration chooses that path or not, it now has until Feb. 5 to claim a longer extension on the rule's effective date under the "good cause" exemption under the Administrative Procedure Act, according to Cary Coglianese, a regulatory law professor at the University of Pennsylvania Law School.

If that exemption is challenged in court, it could well be seen as reasonable, given the need for a new administration to "simply ask for time to take a look at the rule," Coglianese said. The shorter the extension the EPA wants, the likelier it is to be successful in court, he said.

The Trump administration itself used the "good cause" exemption as a rationale for putting the rule into effect right away, arguing its goal of ensuring transparency "is crucial for ensuring confidence in EPA decision-making."

Whatever extension the EPA ends up with, it could use that time to kick off its own, separate rulemaking to undo the Trump rule.

Ignore for Now

In the meantime, the agency could keep working on other rulemakings as if the Trump rule essentially doesn't exist, said Adam Finkel, a professor of environmental health at the University of Michigan.

Even if the rule survives, it won't affect any of the EPA's work until the next time it finalizes a major regulation which is then challenged in court, according to Finkel.

"This gives them a good, long time—maybe a year, maybe two—before it really matters," he said.

The EPA remains committed to ensuring that its actions rest on a strong scientific foundation, said Jennifer Orme-Zavaleta, acting assistant administrator for the EPA's Office of Research and Development who also serves as acting science adviser.

"It is essential that the environmental policies, decisions, guidance, and regulations that impact the lives of Americans are informed by the best available science," she said in an email.

The EPA "will follow the science and law in accordance with the Biden-Harris administration's executive orders and other directives in reviewing all of the agency's actions issued under the previous administration," an agency spokeswoman added.

Just hours before the Montana decision, Biden signed a memo pledging to use "well-established scientific processes" in federal decision-making, underscoring the strong likelihood that his administration will try to undo the rule.

'Like Herpes'

Still another option is for the EPA to order a longer postponement under section 705 of the Administrative Procedure Act, which lets agencies stay effective dates if rules are being legally challenged, said Richard Revesz, an administrative law professor at New York University.

In addition to the Montana suit, a separate federal lawsuit has already been filed against the science transparency rule in New York.

Letting those suits play out, and hoping courts rule against the Trump regulation, is one way of nixing the rule permanently, said Dan Costa, who served as national program director of air, climate, and energy at EPA's Office of Research and Development under President Barack Obama.

"This has been going on for 25 years," said Costa, professor of environment sciences and engineering at University of North Carolina. "It's like a herpes infection that comes back every few years to go after the environmental community to try to undermine the science. And it'll come back again unless they come up with some way of putting it to rest in a permanent way."

Role for Congress

Still another option is for Congress to invoke the Congressional Review Act, which gives the House and Senate time after a rule is finalized to scrap it with a simple majority vote, said Daniel Walters, an assistant professor at Penn State Law.

"At the end of the day, using the Congressional Review Act to nullify this rule prevents a future administration from issuing another rule that is substantially the same, and I think that prospect would be more attractive than a general rescission or vacatur in court for the Biden administration," Walters said.

"I suspect they'll return to the Congressional Review Act in the end, and this decision probably doesn't affect that avenue," he said.

But Mandy Gunasekara, a former EPA chief of staff during the Trump administration, questioned the wisdom of trying to scrap the rule at all.

"I hope the new administration resists the partisan temptation to undo our work, and instead builds off of our comprehensive efforts to increase public awareness and trust in the scientific underpinnings of agency decisions," Gunasekara said.

(Updates with additional commentary in paragraphs 17 through 19.)

Atlantic Richfield Agrees to $24 Million Montana Smelter Cleanup
https://news.bloomberglaw.com/environment-and-energy/atlantic-richfield-agrees-to-24-million-montana-smelter-cleanup?context=search&index=2

BY SYLVIA CARIGNAN

Jan. 29, 2021

Atlantic Richfield Co., the EPA, and a federal district court in Montana have signed off on an agreement to continue remediating a Montana Superfund site the company has worked to clean up for nearly four decades.

The U.S. District Court for the District of Montana finalized a consent decree Thursday between the company and the Environmental Protection Agency, binding the company to additional cleanup at the Anaconda Smelter Superfund site in Anaconda, Mont.

The 300 square mile site was the focus of a 2020 U.S. Supreme Court decision prompted by residents' concerns that the EPA's cleanup plan and Atlantic Richfield's execution of it were insufficient, leaving them with properties contaminated by lead and arsenic.

The estimated cost of the cleanup under the consent decree is $23.7 million. Atlantic Richfield will address pollution of the site's water, waste, and soil, but the plan doesn't affect the concerned residents' properties, according to the consent decree.

The Supreme Court remanded the residents' case to Montana state courts to review their claims in light of their status as "potentially responsible parties" under Superfund law, a classification that would prevent them from conducting cleanup work outside of EPA's plan without the agency's authorization. The residents asked for up to $58 million from Atlantic Richfield to pay for their land to be restored to its pre-smelter state.

The EPA has issued more than a dozen administrative orders to Atlantic Richfield since 2000 to address contamination at the Anaconda site. Some of the mandates aimed to reduce arsenic in soil, cover smelting waste piles, and control stormwater runoff at the site, according to the consent decree.

The EPA and Montana Department of Environmental Quality started investigating the site in 1983, when it was placed on the National Priorities List. The smelter shut down in 1980.

The agency expects most of the Anaconda Smelter site's remediation to be completed by 2025.

Cause of Action: Comprehensive Environmental Response, Compensation, and Liability Act.

Attorneys: Davis Graham & Stubbs LLP represented Atlantic Richfield.

The case is U.S. v. Atlantic Richfield Co., D. Mont., No. 2:89-cv-39, 1/28/21.

Neshawne Gibson
Office of the Administrator
US Environmental Protection Agency
Phone: (202) 566-1957
Mobile: (202) 603-7617

Message

From: Labbe, Ken [Labbe.Ken@epa.gov]
Sent: 1/28/2021 5:31:01 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Media Clips, January 28, 2021 (morning edition)

Daily Media Clips, January 28, 2021 (morning edition)

Climate
Resource Mag: Striking Down the Affordable Clean Energy Rule Helps—But Does Not Guarantee—Ambitious Climate Policy
Enforcement
Beaumont Enterprise: Dow settles with EPA over flaring in Texas, La.
Renewables
Oklahoma Farm Report: Court Seeks Status Report on EPA Compliance with Order on Renewable Volumes
Superfund
WFAE: EPA To Remove Asbestos At 11 More Davidson Sites, Including Park
Water
Texas prepares to test for lead in schools' drinking water for the first time

Striking Down the Affordable Clean Energy Rule Helps—But Does Not Guarantee—Ambitious Climate Policy
https://www.resourcesmag.org/common-resources/striking-down-the-affordable-clean-energy-rule-helpsbut-does-not-guaranteeambitious-climate-policy/

Nathan Richardson, Dallas Burtraw, and Tim Brennan

A circuit court recently struck down the Trump administration's attempt to replace Obama's Clean Power Plan with its Affordable Clean Energy rule. The decision opens avenues for the Biden administration to pursue climate policy, but forthcoming efforts will need to contend with a skeptical Supreme Court.

The US Court of Appeals for the District of Columbia Circuit struck down the outgoing Trump administration's Affordable Clean Energy (ACE) rule last week, on the final day of Trump's term in office. The decision hinged on the question of whether regulations to limit greenhouse gas emissions could apply only to the actions taken by individual power plants—the position held by the US Environmental Protection Agency (EPA) under Trump, based on the agency's narrow interpretation of its own authority under the Clean Air Act (CAA)—and not to efforts that affect the electricity sector as a whole, such as swapping out coal generators for cleaner alternatives. The court decided that EPA's restrictive legal assumptions were not permissible grounds for promulgating the ACE rule.

This decision by the DC Circuit court may open up options for the Biden administration to instate its own rulemaking under the CAA, but the Biden administration's climate policy team should not get its hopes up just yet.

On the upside, the decision opens a pathway for reducing environmental pollution by placing regulations on co-firing—the simultaneous combustion of two or more types of material—at power plants across the country. All kinds of similar

flexibility for regulating greenhouse gases will now be possible through Section 111(d) of the CAA, relating not just to co-firing, but also fuel switching, dispatch order changes, and even renewable energy resources.

On the other hand, the decision does not license bold CAA climate policy from the Biden administration, nor even necessarily modest emission reduction targets like the Obama-era Clean Power Plan. Agreement among two of the three judges on the DC Circuit is a good show of support, but this circuit court decision doesn't predict how the US Supreme Court might rule—nor does it even predict what the whole (en banc) DC Circuit might decide. Last week's DC Circuit court decision won't get appealed to a higher court, largely because EPA no longer answers to the Trump administration—but any and all of Biden's climate efforts moving forward most likely will be appealed to a higher court. And even if the DC Circuit would uphold a revamped "Clean Power Plan 2.0," the Supreme Court is likely to be much more skeptical.

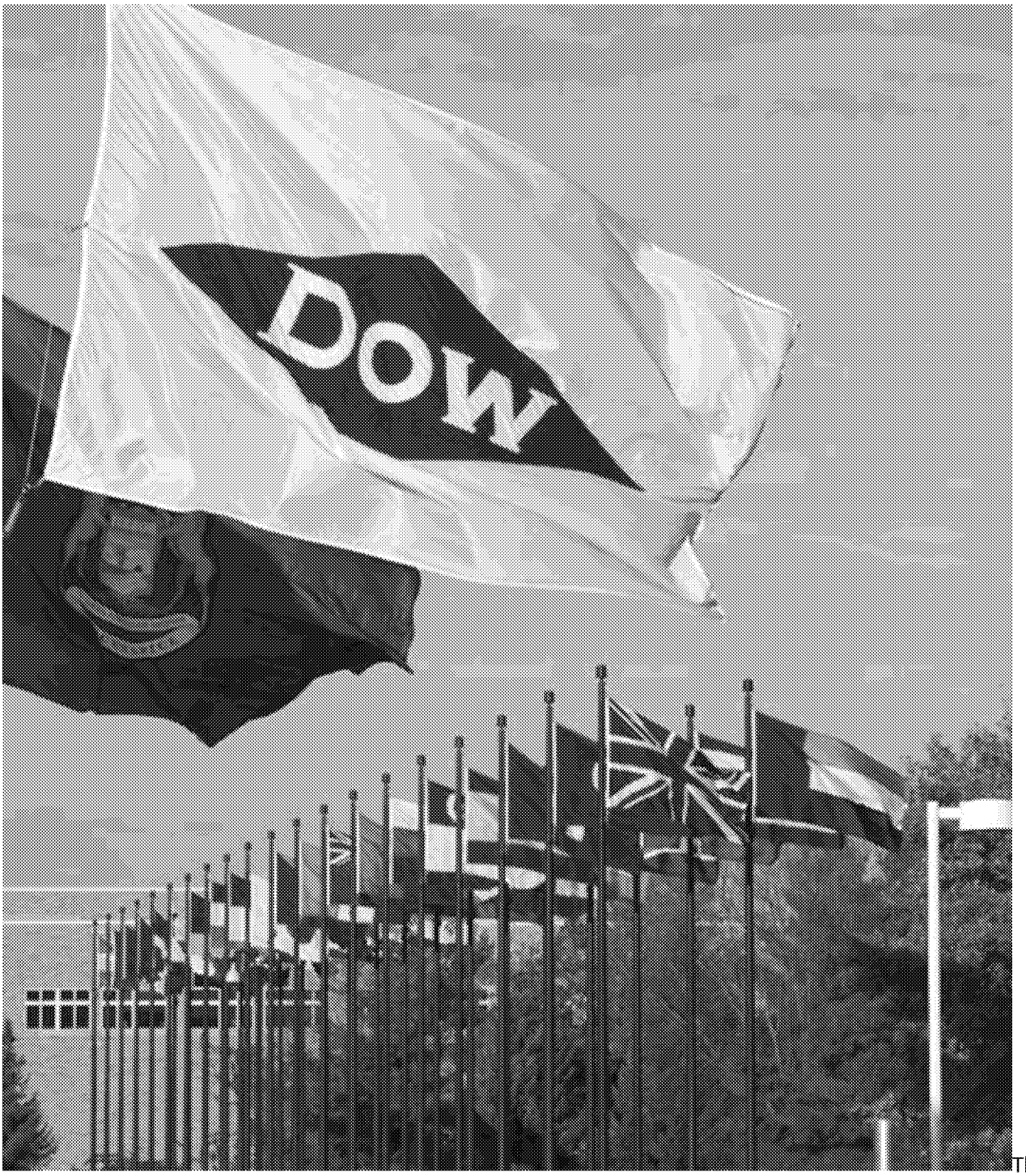
The ruling also does not offer a clear repudiation of other important elements of the Trump administration's environmental agenda. For instance, the court did not address differences between how the Obama EPA and Trump EPA calculated the social cost of carbon, relating to whether to count benefits outside US borders and how to compare future benefits of climate mitigation against present costs, the quantification of which is known as the discount rate. The difference in the calculations, going from the Obama number of $43 to the Trump number of $1, was the basis for the Trump EPA's finding that the costs of the Obama-era Clean Power Plan outweighed the benefits.

The DC Circuit majority ruling justified its decision to toss the ACE rule based solely on statutory interpretation grounds, namely, that EPA wrongly claimed that Congress specifically limited the agency's ability to impose regulations under the CAA. If the Trump EPA had claimed, instead, that the CAA was sufficiently vague such that the agency could interpret its own authority as limited, then the ACE rule might have been upheld. For whatever reason—whether because they already had the statutory interpretation grounds to revoke the ACE rule, or because they felt no need to invoke the issue—the DC Circuit judges make no mention of the substantial difference in social cost of carbon calculations between the Obama and Trump administrations.

The Biden administration is poised to revisit this issue. The Biden EPA undoubtedly will propose a new estimate for the social cost of carbon, likely using a lower discount rate and accounting for the global impact of carbon emissions. Both of these considerations will bring the social cost of carbon back up.

The obstacles make us hesitate to say that Biden has a clear path ahead; but we think it's appropriate, given previous formal findings about the harm of greenhouse gases to human health and welfare, and EPA's responsibility to mitigate such harm, for the Biden administration to leverage the CAA to push ambitious climate policy. The DC Circuit vacating the ACE rule is a good thing for effective climate policy, but it may be a trap for the Biden EPA—unless the administration manages to design regulations that can pass through a skeptical Supreme Court.

Dow settles with EPA over flaring in Texas, La.
https://www.beaumontenterprise.com/news/article/Dow-settles-with-EPA-over-flaring-in-Texas-La-15904897.php
Jacob Dick, Staff writer
Jan. 28, 2021Updated: Jan. 28, 2021 8:20 a.m.
Comments



The Dow Chemical Co. is tackling the world's plastic pollution. (Photo provided)

Dow Chemical will have to spend close to $300 million on equipment upgrades and pay $3 million in fines as a part of a settlement with federal agencies and the state of Louisiana over emissions from its plants there and in Texas, the agencies announced.

The company will have to install and operate air pollution control and monitoring technology on 26 industrial flares, some of them at plants in Orange and Freeport, after action by the U.S. Environmental Protection Agency and Department of Justice.

The agencies alleged that Dow allowed its plant to send massive amounts of process emissions through its flares — often referred to as “oversteaming” and known to damage to flares and increase pollution — and didn’t follow “key

operating parameters" to prevent release of allowable cancer-causing and hazardous air pollutants from impacting adjacent communities.

"By requiring a reduction in the quantity of waste gases that are flared and an improvement in combustion efficiency at four Dow facilities, this settlement will prevent the annual discharge of thousands of tons of harmful air pollutants," Larry Starfield, EPA's acting assistant administrator for the Office of Enforcement and Compliance Assurance, said in a statement.

The EPA estimates the improvement projects will reduce the emission of volatile organic compounds, or VOCs, by more than 5,600 tons per year. Other toxic air pollutants such as benzene would be reduced by around 500 tons per year, according to the agency.

Louisiana joined the settlement as a co-plaintiff, and the Louisiana Department of Environmental Quality will receive $675,000 directly from the civil penalties levied against Dow.

Dow said through a spokesperson that it has been working on the upgrades and has already budgeted for the ordered projects at its Texas and Louisiana plants.

"In 2015 Dow began making upgrades to its flare systems, and all projects are expected to be complete by 2025," a representative wrote in an email to the Enterprise Wednesday. "The total investment over this 10-year time period is $290 million and is part of the company's operating capital expenditure budget."

The settlement also covered deficiencies at plants owned by two Dow subsidiaries. One of them is Performance Material NA, which operates the plant in Orange that is detailed in the complaint.

According to self-reported data to the Texas Commission on Environmental Quality, the Orange plant had a flaring event during eight of the 12 months in 2020. That included events related to startup activities after Hurricane Laura and Hurricane Delta tore through the area.

The most recent one occurred Dec. 4, when a leak in a key piece of equipment made it unsafe for crews to perform repairs without venting 11,410 pounds of ethylene, according to estimates submitted by the company.

Along with improving flaring efficiency, the new system required at the Orange plant will allow the company to capture or recycle a minimum of almost 3 million cubic feet of vapors per day.

Court Seeks Status Report on EPA Compliance with Order on Renewable Volumes
http://www.oklahomafarmreport.com/wire/news/2021/01/00756_courtSeeksStatusReport01282021_062736.php#.YBLX6uhKjIU

Thu, 28 Jan 2021 08:27:25 CST
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growth energy
America's Ethanol Producers

The U.S. Court of Appeals for the District of Columbia Circuit today directed the U.S. Environmental Protection Agency to submit a status report every 60 days "on its progress in complying with the court's remand" stemming from the July 2017 ruling in Americans for Clean Energy v. EPA. The 2017 ruling required EPA to address its improper waiver of 500 million gallons of 2016 renewable fuel blending requirements under the Renewable Fuel Standard (RFS).

Today's order from the D.C. Circuit was in response to a motion filed in December 2020 by biofuel and farm organizations, in which the groups asked the court to enforce its 2017 decision by requiring EPA to fully restore the 500-million-gallons that were inappropriately waived from the 2016 RFS requirements. While the court denied the motion, the groups welcomed the court's requirement that EPA provide status reports every 60 days on its progress in responding to the court's decision.

The coalition, which includes Growth Energy, the Renewable Fuels Association, National Biodiesel Board, American Coalition for Ethanol, National Corn Growers Association, National Farmers Union, and National Sorghum Producers, issued the statement following the court's announcement today:

"While we are disappointed by the court's order on our motion, we are glad to see that the court is holding EPA accountable by requiring it to submit a report every 60 days on the status of the court's remand on the improper waiver. This time of transition provides EPA the opportunity to move boldly and address prior missteps when it comes to the need for a low-carbon future for our nation's fuel supply; adjusting quickly for the court-ordered remand would do just that. America's biofuel producers, rural communities and farm families look forward to working with EPA and the Biden administration to make progress on restoring integrity and growth to the RFS."

In the July 2017 ruling in the case Americans for Clean Energy et al. v. EPA et al., the court invalidated the EPA's improper waiver of 500 million gallons in the 2016 RVO rule and ordered EPA to revisit the rule. The court held that EPA's interpretation of the "inadequate domestic supply" waiver provision "runs contrary to how the Renewable Fuel Program is supposed to work." To date, EPA has failed to complete any proceedings to reconsider the 2016 RVO and has not restored the 500 million lost RIN gallons.

EPA To Remove Asbestos At 11 More Davidson Sites, Including Park
https://www.wfae.org/energy-environment/2021-01-28/epa-to-remove-asbestos-at-11-more-davidson-sites-including-park
WFAE | By David Boraks
Published January 28, 2021 at 9:14 AM EST

David Boraks / WFAE

Contractors for Charlotte Water remove asbestos-laden soil from Sloan Street in Davidson during a water main upgrade project in January.

The Environmental Protection Agency will be back in Davidson next week to start another round of asbestos cleanups, including a town park.

The EPA tested 136 properties on the town's historically African American West Side last summer and fall and found unsafe levels of asbestos at 11. The asbestos came from an old mill nearby that made asbestos from 1930 to about 1970.

Officials say waste asbestos was used as fill in yards and driveways and in the town's Roosevelt Wilson Park. It's a concern because if asbestos fibers become airborne and are inhaled, they can cause cancer and other lung diseases.

At a virtual community meeting Wednesday night, EPA officials described how workers will remove and replace contaminated soil at the 11 sites.

"We're going to wet the contaminated soil before we excavate. And once we remove contaminated soil, we'll do what we call a confirmation soil sample. We'll take a soil sample to make sure we got it," the EPA's Angela Miller.

A layer of plastic fencing will be laid down to mark the depth of the EPA excavation. Then clean fill and fresh sod will be brought in on top, she said.

"We're going to restore areas to their original condition, or sometimes better," Miller said.

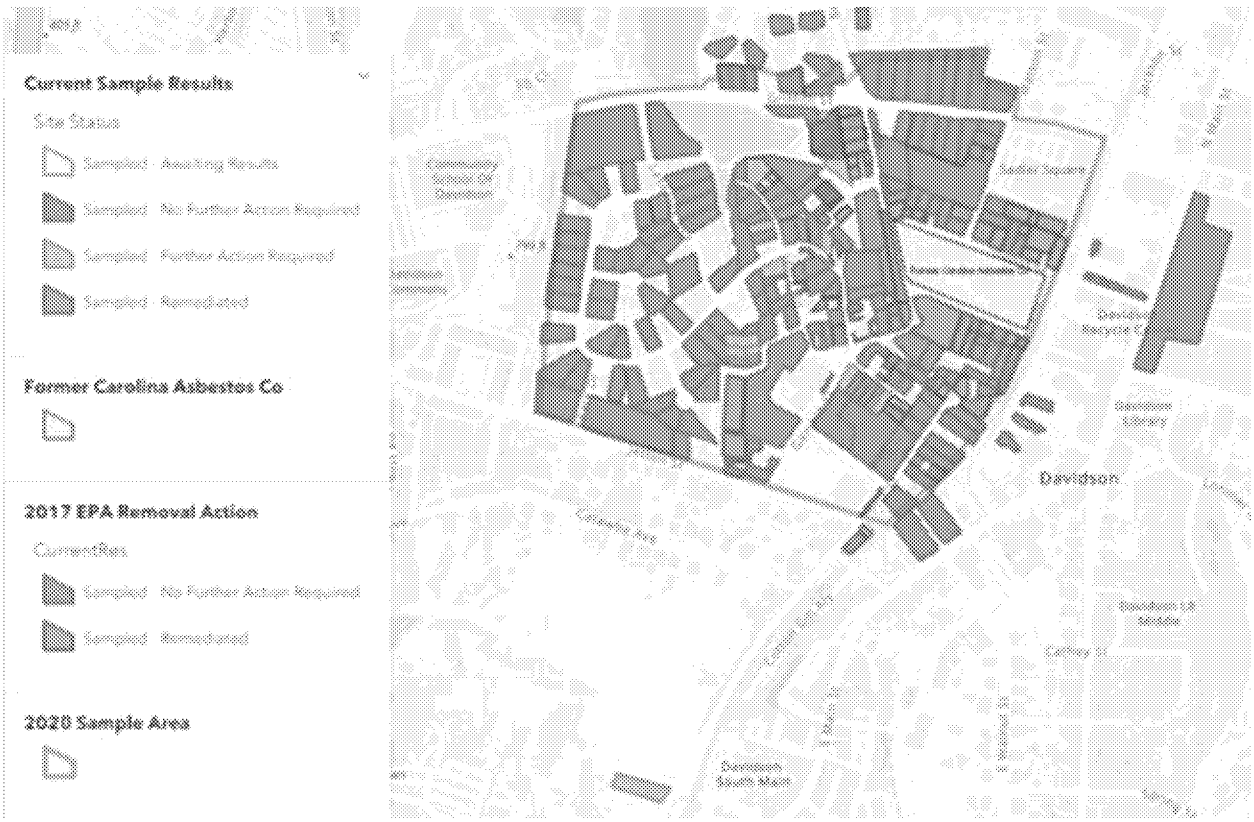
Workers will use air-monitoring equipment to check for any asbestos in the air.

Residents who live at or near the affected properties will be offered hotel rooms during the work, which should take two or three days per site, Miller said. Altogether, the work is expected to take six to eight weeks.

In 2017, the EPA spent $3 million on testing and cleanups at 32 properties in the neighborhood around the mill, including Davidson Presbyterian Church. A total of 6,204 tons of asbestos-containing soil were removed.

Additional properties were tested last year after residents raised concerns that more properties were contaminated. This round of removals will include Roosevelt Wilson Park and homes on Mock Circle, Mock Road, Crane Street, Brandon Street and Potts Street.

Miller said even after the latest round of tests, some property owners still have not granted permission for the free tests. She said the EPA would still do additional testing now if requested.



EPA

A 2021 map shows new yards and properties (orange) where the EPA plans to excavate and replace asbestos-contaminated soil. Pink areas were cleaned up in 2017.

Asbestos Found During Water Main Work

Meanwhile, work is wrapping up on removing asbestos-laden soil found during construction of a water main upgrade in the neighborhood.

Contractors for Charlotte Water wearing white suits and respirators have been removing the soil over the past two weeks on Sloan Street, behind the mill. A spokesperson said during Wednesday's meeting there was still a small amount of material left to remove.

Because of the possibility of finding asbestos, Charlotte Water had to develop an "asbestos work plan" and train workers before it started digging in the area. That spelled out how it would handle any contaminated soil. Besides wearing protective gear, workers are also monitoring air quality.

Davidson Public Works and Project Manager Doug Wright said future utility and construction projects on the West Side could be similarly affected.

"Any work that takes place in the neighborhood in the future, where there's excavation to a deep depth such as the Charlotte Water project, this will be a consideration," Wright said.

He said the town will flag any future projects for possible asbestos contamination as it reviews requests for permits.

And the state Department of Environmental Quality is studying whether to declare the West Side as an "asbestos watch area," which would signal to future developers that they need to test for asbestos.

More information about the EPA cleanup, including contacts for additional testing, can be foundon the EPA website.

Texas prepares to test for lead in schools' drinking water for the first time
https://abc13.com/10095890/
By Erin Douglas, The Texas Tribune
Updated 13 minutes ago

Michigan will pay $600 million to compensate residents who suffered after their water source was contaminated by lead from aging pipes in 2014.

Texas will soon begin a program to test drinking water in thousands of elementary schools and child care facilities across the state following an update to federal standards on lead and copper exposure.

The change comes in the aftermath of the Flint, Michigan, water crisis that began in 2014. Michigan had switched the community's water source to the Flint River but failed to properly treat the water to ensure it did not corrode the pipes. Lead and other contaminants leached into the predominantly Black community's water supply as a result, a problem that went ignored for more than a year.

In one of the last actions by a Trump-led Environmental Protection Agency, the December update to the 1991 federal rule on reducing lead and copper in drinking water - which hadn't been updated in decades - requires water utilities to test water at elementary schools and child care facilities, the Texas Tribune reports. The rule also lowers the threshold for doing corrosion control treatments on pipes and replacing lines that contain lead.

In Texas, it will be the first time the state's roughly 25,000 schools and child care facilities will undergo mandated water inspections for lead and copper - the state did not previously have any testing requirement. Young children are particularly vulnerable to the health effects of lead poisoning on the brain and nervous system, according to the EPA. Lead exposure in children is known to cause slowed growth, behavior and learning problems, difficulty hearing and lower IQs.

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That means Texas parents and guardians will get information on whether the water in their child's school or care facility contains unsafe levels of lead. But it will take time and money to correct any problems discovered through testing - details the state is still working out.

"At this early stage, TCEQ is still evaluating the new requirements of this complex rule and has not fully determined yet how to implement the rule as revised," said Gary Rasp, a spokesperson for the TCEQ. "TCEQ is not aware of any guidance provided by EPA to the states."

To comply with the testing requirement, the TCEQ requested $8 million from the Legislature this session to create a program to test water in tens of thousands of schools and child care facilities and oversee corrective actions by water systems. The current Senate and House budgets proposed for the state include $7.1 million for the program.

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"We feel this is an unfunded federal mandate," Baker said. "We don't disagree with the rule; we have needed this for a while. But, it's quite an expensive undertaking for the state."

Baker said in addition to requesting money from the Legislature, the agency will continue to ask the federal government to make funding available for testing. He said the TCEQ will need to create a new database, design a system for monitoring and hire new positions at the agency to carry out the mandate.

Testing water and correcting lead levels can be an expensive and time-intensive task, experts said, because the problem is so widespread and can occur from many different sources, particularly in complex facilities like schools. Lead usually enters drinking water through lead-based pipes or plumbing - which were used for decades before being banned in the 1980s.

"It is a legacy problem because there used to be a time when lead was not controlled as tightly as it is now," said Gregory Korshin, a professor of civil and environmental engineering at the University of Washington. "Everything that was installed years ago is still there, and it's very difficult to correct it."

The EPA estimates that drinking water can make up 20% or more of a person's total lead exposure. And identifying which component of a water system is the source of contamination can be difficult - and expensive.

"Every single case is different," Korshin said. "The source of the lead might be quite unpredictable. It's a very complicated issue to address."

After the Flint water crisis gained national attention, at least 17 Texas school districts proactively tested drinking water for lead, according to data compiled by Environment Texas, an Austin-based nonprofit. Of the more than 1,000 schools in those districts, 13% found concentrations of lead above the federal threshold for corrective action.

Fort Worth Independent School District, for example, identified 60 schools with levels of lead above that threshold during its testing initiative in 2016. After testing, the school district was able to remove or replace sources of lead contamination, such as old-style water fountains, according to a press release at the time.

The EPA rule sets a threshold of 15 parts per billion of lead in water to take corrective action, including replacement of water service lines over a number of years, and a lower "trigger" threshold of 10 parts per billion of lead to require water systems to take steps to reduce lead in the water.

While scientists agree that no level of lead in the body is safe for children, EPA regulators countered that the systems with the highest concentrations should be prioritized.

"Setting a lower trigger level would substantially increase the number of water systems required to obtain review," the EPA wrote in a response to public comments. "It is not practicable for this significant number of water systems to obtain state review and approval."

Environmental groups maintain that the threshold for intervention is still too high. They also said Texas will need significant resources, money and stricter standards in order to prevent children from being exposed to lead.

Even among schools that voluntarily tested and corrected significant sources of lead exposure, many still have some level of lead in the water, said Luke Metzger, executive director of Environment Texas. He said the Legislature should set a lower standard for intervention.

"There are thousands of schools in the state that we don't even have information on," Metzger said. "The $7 million is a good start, but that probably won't go as far as needed."

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Message

From: E&E News [ealerts@eenews.net]
Sent: 3/15/2021 5:28:13 PM
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GREENWIRE — Mon., March 15, 2021

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A distinctive celebration followed by endless personnel, policy and political challenges are in store for Deb Haaland after her expected Senate confirmation today as Interior secretary.

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Not again: NPS nixes Mount Rushmore fireworks request

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House Republicans release climate, energy package

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Ex-Manchin aide to lobby for National Mining Association

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USDA considering climate-friendly program changes

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Narwhal tusks harbor climate, pollution data — study

8. ENDANGERED SPECIES:
Mexico spurns rare porpoise, may seek to blame U.S.

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NPS says ranger tried to defuse run-in before using Taser

10. ENDANGERED SPECIES:
Wild population of Mexican wolves keeps growing

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N.M. wants DOE to do more to clean up Los Alamos

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Philly to dim lights to make it safer for birds in flight

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Firefighter still critical as brush fire smolders

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'Nothing but problems': Shipwreck tear-down enters 5th month

INTERNATIONAL

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Worst sandstorm in a decade forces flight cancellations

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Energywire -- The Transformation of the Energy Sector

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ENERGYWIRE — Fri., March 12, 2021

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How the oil industry is shifting to offshore wind

The oil field services industry has shed more than 100,000 jobs and is looking to renewables for a lifeline.

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Coal-rich Wyoming eyes net-zero emissions. Is that possible?

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Judges revive rejected Mountain Valley project permit

4. CALIFORNIA:

DOE study: CCS permitting could thwart clean energy goals

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Report shows financial troubles of 16 U.S. nuclear plants

6. TEXAS BLACKOUTS:

Gas flaring at U.S. oil refineries highest on record — report

LAW

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Court OKs Interior endangered species review of gas terminal

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Texas leaders press utility regulator to correct power prices

9. ELECTRIC VEHICLES:

GM partner LG to invest $4.5B in U.S. battery operation

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Pressure builds ahead of Biden recovery push

After a year of seeing top priorities sidelined, energy and environment interest groups are stepping up pressure to steer the upcoming infrastructure package toward clean energy and climate goals.

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Energy groups keep boycott of lawmakers who fought Biden win

3. ENERGY POLICY:

Hearing shows split on grid needs, response to Texas mess

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Dan Crenshaw, Anthony Gonzalez join climate committee

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Witnesses outline challenges to farm climate plan

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Lawmakers push watershed restoration, climate spending

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Lawmakers form group to consider Chesapeake Bay status

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Cruz slows more nominees over Russian pipeline sanctions

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Lawmakers introduce Rocky Mountain, trails, species bills

10. ENERGY POLICY:

Bipartisan bill would make daylight saving time permanent

UPCOMING HEARINGS AND MARKUPS

11. CALENDAR:

Activity for March 8 - March 14, 2021

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Subject: January 27, 2021 Daily Clips (Afternoon Edition)

January 27, 2021 Daily Clips (Afternoon Edition)

COVID-19

Fox 17 Knoxville: "Tennessee, Georgia approved for use of machine capable of killing 98% airborne coronavirus"

Enforcement

The Advocate: "Dow, Union Carbide, other subsidiary seek $3M EPA settlement for years of pollution, faulty flaring"

Environmental Justice

Bloomberg Law: "Biden Bolsters DOJ Focus on Environmental Justice, Climate"

Bloomberg Law: "Environment Justice Scorecard Puts Teeth in Biden Equity Pledge"

PFAS

The Fayetteville Observer: "Denied by Trump EPA, NC activists hope Biden EPA will force 'forever chemical' study"

Water

CBS News New York: "EPA Checking For Possible Contaminants In Water After Barge Sinks In Gowanus Canal"

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COVID-19

Fox 17 Knoxville
"Tennessee, Georgia approved for use of machine capable of killing 98% airborne coronavirus"
Adrian Mojica

NASHVILLE, Tenn.--The Environmental Protection Agency (EPA) has approved a tool for use in Tennessee to combat airborne COVID-19 transmission.
The EPA approved and emergency exemption for the tool on January 15, which can best be described as a fog machine which disperses an antiviral mist indoors, mixing with the air and breaking down the protein and membrane of the novel coronavirus.
The first-of-its-kind technology was developed by Grignard Pure, a company which is the leading producer of air treatment products in the U.S. commonly used at concerts and theatrical productions to create light and special effects.

According to the EPA, the active ingredient in Grignard Pure is Triethylene glycol (TEG), commonly used in fog machines for concerts and productions. The EPA says based on previous reviews and efficacy testing, the mist is capable of killing 98% of airborne novel coronavirus. The technology would be connected through a building's HVAC system by a trained professional.

One potential issue is TEG can irritate sensitive populations. The approval will require signage to be posted in areas/buildings where the product is being used.

Under the EPA approval, Georgia and Tennessee have been cleared for use of the technology. Areas where it can be used includes health care facilities, long-trip buses, trains, and subways, food processing plants, and indoor spaces within buildings where essential activities are being conducted and deemed essential by the state.

Enforcement

The Advocate
"Dow, Union Carbide, other subsidiary seek $3M EPA settlement for years of pollution, faulty flaring"
David Mitchell

Dow Chemical and two of its subsidiaries would pay a $3 million fine and spend $294 on new pollution controls in a proposed settlement regulator's claims that their plants in Plaquemine, Hahnville and Texas allowed too much pollution into the air.
The U.S. Environmental Protection Agency and the state Department of Environmental Quality have alleged a series of Clean Air Act violations in a new civil complaint. They say Dow and the two subsidiaries, one of which is Union Carbide, operated 26 flares in Louisiana and Texas in a way that made them less efficient at destroying harmful chemical air pollution for more than a decade.

Flares are a process of burning off harmful gasses, which causes the tell-tale flames visible at plants.
In the joint complaint, the regulators allege these operational failures had "resulted in thousands of tons of illegal emissions of volatile organic compounds," hazardous air pollutants and other pollutants into the air.

Under a pending settlement with the regulators, Dow Chemical and its subsidiaries would pay $3 million in civil penalties and agree to fence-line air monitoring for benzene, a human carcinogen, with results available to the public online, among other requirements.

Lawsuit claims EPA's rules for industry flares are obsolete, could be underestimating air pollution

In Louisiana, the proposed settlement would affect the operation of six flares at Dow's Plaquemine complex in Iberville Parish outside Baton Rouge and eight flares at Union Carbide's plant in Hahnville in St. Charles Parish outside New Orleans.

The other affected flares are at a Dow plant in Freeport, Texas, and the Sabine River Works in Orange, Texas.
"This settlement means cleaner air for communities across Texas and Louisiana and reinforces EPA's commitment to enforce the law and hold those who violate it accountable," Susan Bodine, assistant administrator for EPA's Office of Enforcement and Compliance Assurance, said in a statement.
Ashley Mendoza, a Dow spokeswoman, said the company has been working since 2013 with EPA "to ensure it meets new combustion efficiency expectations" and began making flare improvements two years later. She added the company expects to have them finished by 2025.

Dr. Chuck Carr Brown, secretary of DEQ, said his agency will continue to work with EPA and the Department of Justice reach settlements that solve compliance matters.

"The Clean Air Act provides a blueprint for industry to operate in a safe and controlled fashion," Brown said in the statement.
Under the settlement, DEQ would get $675,000 of the penalties and EPA would get the rest. Dow and its subsidiaries would also agree to pay for another $424,786 for beneficial environmental projects in Louisiana.

Oil and gas companies, others allowed to bypass environmental rules amid pandemic, AP finds

Those projects would pay for several years of environmental education programs and buy DEQ a new handheld monitor for hydrogen sulfide, a toxic gas, and an aerial drone that can do air monitoring, the proposed settlement says.

The EPA and the Department of Justice estimated that the new pollution controls will reduce harmful volatile organic compounds by 5,689 tons per year; toxic air pollutants, including the benzene, by 480 tons per year; ozone-forming nitrogen oxides by 127 tons per year; and minute particulate matter by an unspecified amount.

VOCs and nitrogen oxides help form harmful smog and ground-level ozone that can lead to long-term respiratory damage. Particulates can get in deep in the lungs and also cause severe respiratory damage.

The changes would also cut hundreds of thousands of tons per year of greenhouse gases known to worsen global climate change and sea level rise.
EPA and DEQ filed the civil complaint over the alleged violations and the proposed consent decree on Jan. 19 in U.S. District Court in New Orleans. The settlement remains in a 30-day public comment period and needs final court approval, Department of Justice officials said.

The operation of industrial flares, which have an important role in ensuring dangerous emissions are reduced, has come under increasing attention from EPA and others in recent years and. In recent years, the agency has tightened the rules on their operation for oil refineries and ethylene crackers.

But, last fall, the EPA came under fire from environmental groups, who alleged in a lawsuit in Washington, D.C., that the agency needed to update its rules for flare operations in many other kinds of industrial facilities because the flares were being run less efficiently and that failures were leading to higher-than-expected air pollution.

Late last year, the American Petroleum Institute, an oil and gas industry trade group, also announced an initiative among more than 80 company members to cut flaring and improve flare efficiency.

Dow Chemical sold Louisiana tank farms to Dutch joint venture for $620 million

Each of the four chemical complexes affected by the settlement include olefin plants that make ethylene and propylene, feedstocks in the production of consumer plastics, carpet and car parts, and polymer plants that make polyethylene, a feedstock that shows up in food containers and truck bed liners.
Industrial flares that so often frame the horizon behind Louisiana chemical facilities are among their most important pollution control devices, serving as the eraser of last resort that burns up emissions routed to them from various sections of a plant.

The flares are purported to have 98% or 99% destruction efficiency. That assumption is built into state air pollution permits for large industrial facilities that are supposed to ensure plants operate in a way that is protective of public health and the environment.

But the EPA complaint alleges that Dow and its subsidiaries made modifications to their flares and their flaring practices without proper permitting or monitoring equipment and failed to run those flares so they had the most complete destruction of the chemicals shunted to the burning flame.

The flares in question are "steam assisted," which means they used steam as a way to prevent sooty black smoke. But the use of too much steam, which Dow and its subsidiaries are accused of doing, can cut down on flame temperature and reduce combustion levels of harmful chemicals.

Part of the settlement would require Dow and the subsidiaries, Union Carbide and Performance Materials NA Inc., to install monitoring equipment that allows the chemical companies to better check those flares' operating conditions, the Department of Justice says.

The companies would also have to install systems that recycle the gases for fuel or for sale that would otherwise have been sent to and burned up in the flare.
Dow also must create plans to minimize wastes to cut flaring further, the Department of Justice says. PMNA operates the Orange, Texas, plant.

Environmental Justice

Bloomberg Law
"Environment Justice Scorecard Puts Teeth in Biden Equity Pledge"
Jennifer Hijazi & Dean Scott

President Joe Biden's executive order on climate change includes a big win for environmental justice advocates: a new scorecard to hold all agencies accountable in pushing more equitable treatment of people of color and polluted communities.

The Environmental Justice Scorecard, outlined in Wednesday's order, would be part of a governmentwide effort dubbed Justice40 to ensure they're meeting his pledge to direct at least 40% of clean energy and other infrastructure investments goes to vulnerable communities.

The scorecard puts teeth in what groups such as WE ACT for Environmental Justice say is the first significant step by the new president to make good on his vow to put more resources in poorer communities that too often bear the brunt of pollution.

"It's exciting—we all believe within the environmental justice movement that we are well past the time to act and this administration is demonstrating a commitment to deliver meaningful and measurable progress to systemic inequities," said Dana Johnson, WE ACT's federal policy office director.

"We're already seeing some impact—and some positive progress," she said, though other actions also promised in the order are really long-term projects, such as strengthening a 1994 executive order issued by President Bill Clinton.

Biden outlined the environmental justice policies in a broader roll-out of climate actions to meet his pledge for a carbon pollution-free power sector by 2035 and moving to a net-zero emissions economy by 2050.

He's also resurrecting and elevating environmental justice councils to ensure better coordination across his administration, including an Interagency Working Group on Environmental Justice.

Screening Tool Expanded
The executive order on climate expands to other agencies and departments an Environmental Protection Agency tool that cross references environmental and demographic data to give snapshots of communities most impacted by environmental threats.

The newly dubbed Climate and Environmental Justice Screening Tool will expand on EPA's mapping, known as EJSCREEN, to drive more equitable decisions across government, according to the order.

Biden's effort also strengthens or stands up new monitoring and enforcement offices at EPA, the Justice Department, and the Department of Health and Human Services. They'll also advise Biden on updating Clinton's 1994 executive order.

Groups backing broad climate action said Biden's order largely meets expectations for actions he could take just one week into his presidency. They also note that executive orders can only go so far without Congress passing new climate or environmental justice legislation to make significant changes.

The order "puts America on the path towards addressing the pollution that has been unjustly concentrated in communities of color and rebuilding our economy by creating new good-paying union jobs, addressing income inequality, and ensuring all communities" benefit from economic opportunities, said John Podesta, who founded the Center for American Progress and coordinated climate policy for President Barack Obama.

Devil in the Details

Others say the order is an overdue step. Biden is at last ensuring that environmental justice will be a key component to climate change action, said Elizabeth Moses, environmental justice associate at the World Resources Institute's governance center.

It's a move that "couldn't come fast enough or urgently enough. It's a huge issue that has been ignored for too long," Moses said. "It has the real opportunity to create a very positive change, but to be honest, the devil, of course, would be in the details."

Other actions needed that will take longer include revamping the National Environmental Policy Act to provide people of color and other marginalized groups more of a say on environmental reviews and permitting.

Helen Kang, director of Golden Gate University's Environmental Law and Justice Clinic, said poorer communities ringing San Francisco including West Oakland and East Palo Alto haven't just been impacted by pollution but rather have been inundated by it. The same communities lack access to healthy food, housing, and amenities available to wealthier communities such as green space, she said.

Biden's effort adopts what's being called a "whole-of-government approach" to combating climate change and racial inequities. Climate Power 2020 Executive Direct Lori Lodes noted the president's actions includes job creation efforts that could help poorer communities such as a new conservation-minded Civilian Climate Corps Initiative.

Community Investment

The order also takes early steps toward grappling with how investments can be steered to communities and regions impacted by coal operations, power plants, and other fossil fuel industries.

The newly dubbed White House Interagency Working Group on Coal and Power Plant Communities launched in Biden's order would work to better coordinate governmentwide investments in those communities.

That effort will focus on "putting people to work with the skills they already" have, White House National Climate Adviser Gina McCarthy said at a press conference. Those jobs could include remediation of closed mines and making cement, steel, and other carbon-intensive industries more climate-friendly, she said.

Biden's view is those jobs need to be created in existing communities, McCarthy said.

"We're not going to ship out to the coasts" workers from the communities they call home, she said.

Josh Freed, who lead's Third Way's climate and energy program, said the order is yet another signal that Biden intends to insert environmental justice concerns and solutions in a broader array of policies than previous presidents.

Bloomberg Law

"Biden Bolsters DOJ Focus on Environmental Justice, Climate"

Ellen Gilmer

The Justice Department must consider establishing an environmental justice office under a sweeping executive order President Joe Biden issued Wednesday.

The order aims to carry out Biden's pledge to take a "whole of government" approach to addressing climate change and the disparate effects of pollution on disadvantaged communities—calling on agencies across the executive branch to devote resources to the cause.

It directs the Justice Department to consider adding an environmental justice office "to coordinate environmental justice activities among Department of Justice components and United States Attorneys' Offices nationwide." It also directs the department to consider changing the name of its existing Environment and Natural Resources Division to the Environmental Justice and Natural Resources Division.
It further calls on the division to coordinate with the Environmental Protection Agency and others "to develop a comprehensive environmental justice enforcement strategy, which shall seek to provide timely remedies for systemic environmental violations and contaminations, and injury to natural resources."

The language of the order differs from how it was described in a press briefing Wednesday, when White House climate adviser Gina McCarthy said the order calls on the Justice Department to create an office of "climate justice."
"We know the communities who are being hurt, and we know we have to start enforcing the standards today in ensuring that they are part of the solution," she said.

A White House spokesperson referred questions about the leadership and structure of the climate justice office to the Justice Department, which didn't immediately respond to questions about the order.

'Power Struggle'

DOJ's Environment and Natural Resources Division has long overseen a broad portfolio of enforcement cases and defense of agency actions. The new order centralizes environmental justice-focused work, but it wasn't immediately clear whether the proposed environmental justice office would be part of ENRD.

"In order for it to be really effective, I think that would be a hard thing to do if it's just a component section of ENRD," said Sidley Austin LLP attorney David Buente, a former DOJ lawyer from 1979 to 1990, explaining that an office within the existing division wouldn't have enough authority to handle issues that arise in other divisions and U.S. attorneys offices scattered around the country.
Instead, a new environmental justice office could be a stand-alone component that's part of the office of the attorney general, he said.
Depending on how it's structured, the setup could create some challenges and "could lead to a bit of a power struggle," said former DOJ environment lawyer Amanda Shafer Berman, now a partner at Crowell & Moring LLP.

"It would be tough to figure out how an Office of Environmental Justice housed outside ENRD could work efficiently and cooperatively with the ENRD attorneys who are handling most of the environmental cases that the Department handles on a day-to-day basis," Berman said in an email.

Enforcement

The Justice Department and the EPA faced criticism for their approach to environmental enforcement during the Trump administration. The agencies adopted a "compliance assistance" focus, prioritizing education and outreach to companies instead of violation notices and penalties.
Recent data show some increases in civil penalties and criminal fines collected during the Trump administration, but they also show declines in the number of civil enforcement cases, inspections, and criminal prosecutions. Wednesday's order calls on the EPA to ramp up enforcement actions that target violations with a disproportionate impact on underserved communities.

"We must hold polluters accountable for their actions," the order said. "We must deliver environmental justice in communities all across America."
The Department of Health and Human Services, which is also named in Biden's climate order, has worked before on environmental justice issues. The agency participated in the Obama administration's Federal Interagency Working Group on Environmental Justice, issued its first environmental justice strategy in 1995, and released progress reports every year from 2012 to 2017.

PFAS

The Fayetteville Observer
"Denied by Trump EPA, NC activists hope Biden EPA will force 'forever chemical' study"
Gareth McGrath

In the closing days of the Trump administration, the U.S. Environmental Protection Agency rejected a petition by North Carolina environmental groups to force the Chemours Co. to fund studies on the long-term health and environmental impacts of the "forever chemicals" that it had released into the Cape Fear River for decades.

Now that President Joe Biden has selected North Carolina's Michael Regan, the state's secretary of the N.C. Department of Environmental Quality, to be the new EPA administrator, the groups plan to resubmit their request.

They also hope Regan's move to be the country's top environmental steward — assuming he's confirmed by the U.S. Senate — will bring more national attention to the dangers posed by per- and polyfluoroalkyl substances, or PFAS, to people and the environment. "We look forward to working with him, appreciate the work he's done here, and the knowledge he has on PFAS is a huge step forward," said Dana Sargent, executive director of Cape Fear River Watch, one of the groups that submitted the petition.

Petition denied

For decades Chemours and its predecessor, DuPont, dumped manmade chemicals into the Cape Fear from the sprawling Fayetteville Works plant, which sits roughly 70 miles upstream from Wilmington on the Bladen-Cumberland county line just south of Fayetteville. The Cape Fear River is the primary drinking water source for an estimated 350,000 downstream residents, including in and around the fast-growing Wilmington area.

The discovery of the mystery compounds in public water supplies, most famously GenX, was first reported by the Wilmington StarNews in 2017. State regulators led by Regan forced Chemours to stop the discharges later that year. Contaminants also were found in the groundwater around the Fayetteville Works plant, prompting the company to provide bottled water and other remedies to nearby residents who rely on wells for their drinking water.
Study: GenX chemical in 70 of 84 wells tested near Chemours' Fayetteville Works plant

Little is known about the long-term health consequences of prolonged exposure to PFAS. The chemicals are used in many consumer and commercial goods, such as cosmetics, firefighting foam, food packaging and nonstick cookware. But what researchers have determined is that the "forever chemicals" don't break down easily in the environment, and they accumulate in the body.

Learn more:*EPA administrator says Chemours should make newer, safer PFAS chemicals*

In their October petition to the Trump administration's EPA, the environmental groups noted their request would mirror the health testing that was done in the Parkersburg, West Virginia, area, where high levels of "forever chemicals" were contaminating water supplies around another DuPont plant that made Teflon. That testing, which wrapped up in 2013, linked exposure to the manmade chemicals to six diseases: ulcerative colitis, pregnancy-induced hypertension, thyroid disease, testicular cancer, and kidney cancer.

But the EPA, while stating that its denial "is not based on lack of concern with PFAS," said the testing for the 54 manmade chemicals that the environmental groups said were manufactured at Fayetteville Works wasn't necessary because many of the chemicals were already being studied.
The U.S. Centers for Disease Control and Prevention (CDC) and other government agencies also are already undertaking a large-scale, multi-site epidemiologic study of communities where PFAS contamination has been found, the EPA noted.

In a statement released after the EPA's decision, Chemours said the company agreed that environmental groups had failed to provide justification that the Toxic Substances Control Act compels the requested tests. It also noted the efforts it had already made to reduce PFAS discharges from the plant.
River Watch's Sargent said the EPA's decision to not force Chemours to pay for the studies wasn't in line with its mission to protect public health and the environment.

"We're not asking them to conduct this work, and this is not a big ask," she said. Much of the PFAS research currently underway is being done by academic institutions and other government agencies, Sargent said, and they are paying for it, not the polluting companies.
"The ask of EPA in this case is to ask the EPA to do its job," she said.

'Fierce protector'

Regan's selection by Biden to head the EPA received strong support from the environmental community when it was announced in late December.
Gov. Roy Cooper, who hired Regan in 2017, called him a "consensus builder and a fierce protector of the environment."
Regan's widely acclaimed achievements while head of DEQ include the coal ash cleanup agreement with Duke Energy and the creation of the state's Environmental Justice and Equity Advisory Board.

Getting Chemours to stop discharging PFAS into the state's air, groundwater and surface waters also is seen by many as a feather in his cap.

Water

CBS News New York
"EPA Checking For Possible Contaminants In Water After Barge Sinks In Gowanus Canal"

NEW YORK (CBSNewYork) — A barge that sank in the Gowanus Canal may be spilling contaminants into the water.
The Environmental Protection Agency says the barge was moored in the bay but somehow went under water.
Crews are trying to stabilize the boat, which was being used to dredge material from a superfund site.

The EPA is working to determine if toxic sediment from the barge may have been released into the canal.
There's no word on what caused the barge to sink.

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U.S. Environmental Protection Agency
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Message

From: E&E News [ealerts@eenews.net]
Sent: 3/12/2021 12:05:34 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: March 12 -- Climatewire is ready

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AN E&E NEWS PUBLICATION

CLIMATEWIRE — Fri., March 12, 2021

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Message

From: Gibson, Neshawne [Gibson.Neshawne@epa.gov]
Sent: 1/25/2021 5:22:22 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips January 25, 2021 (morning edition)

Daily News Clips January 25, 2021 (**morning edition)**

Administrative
The Hill: Biden leans on Obama-era appointees on climate

Air
Fleet Owner: Aperia secures EPA honor
Public News Service: Biden's Clean-Air, Climate Actions Seen as Benefit for PA

PFAS
Inside EPA: Citizen Coalition Urges Biden To Tap PFAS 'Czar' To Oversee Federal Actions

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Bunkerspot: EPA ANNOUNCES $46 MILLION IN FUNDING TO REDUCE DIESEL ENGINES EMISSIONS

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Inside EPA: Biden EO Might Signal Two-Track Plan For Vehicle GHG Rulemaking
Inside EPA: EPA Asks DOJ To Seek Stays Of Litigation Challenging Agency Rules
Inside EPA: EPA Pulls Biogenic GHG Emissions Rule, Air Modeling Guide From OMB
Waste Dive: Biden administration to review contentious EPA landfill emissions regulation

Water
Bloomberg: Uranium Ore Site Must Meet Drinking Water Requisites, Tribe Says
Water World: EPA delivers results on PFAS Action Plan

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Biden leans on Obama-era appointees on climate
https://thehill.com/policy/energy-environment/535498-biden-leans-on-obama-era-appointees-on-climate

BY RACHEL FRAZIN AND REBECCA BEITSCH
01/23/21

President Biden has begun to draft officials to lead his primary environmental agencies, turning to former Obama-era appointees, nonprofit leaders and longtime congressional aides to enact his climate vision.

The administration this week announced the first round of political appointees who will begin working at the Environmental Protection Agency (EPA), Interior Department and the Energy Department (DOE).

The latest hires will be key players in carrying out the energy and environment agenda that Biden set forth on the campaign trail, including goals of reaching carbon neutrality by the year 2050 and having a carbon free power sector by 2035.

Biden last month tapped Rep. Deb Haaland (D-N.M.) to lead Interior, North Carolina regulator and former EPA official Michael Regan as that agency's administrator, and former Michigan Gov. Jennifer Granholm (D) to be his Energy secretary. All are awaiting confirmation.

The latest appointees have already gotten to work at their respective agencies and in just a few days have begun carrying out Biden's agenda.

Melissa Hoffer, who was named as the Biden EPA's principal deputy general counsel, has asked lawyers at the Department of Justice to pause cases where Trump administration rollbacks are being challenged by environmental groups.

And a recent Interior Department order that temporarily halted new drilling permits on federal lands, a step toward the Biden campaign promise of ending new public lands leasing, is stirring up mixed reactions.

"It is a team that is exceptionally knowledgeable in the subject areas they are getting hired for. These folks are not going to need a lot of ramp up time," said Aaron Weiss, deputy director of the Center for Western Priorities.

The moves were praised by environmentalists, but the Biden administration's early action on climate change has received pushback from Republicans.

"The Biden admin's message to America's blue-collar workers: If you are a blue-collar worker in the energy industry, find a new job," tweeted Sen. Ted Cruz (R-Texas) in response to the news of the Keystone XL cancellation and pause on drilling permits.

Some trade associations in Washington, including the U.S. Chamber of Commerce, applauded the decision to rejoin the Paris accord, while criticizing the Keystone decision.

Several of the new hires, announced over the past several days, are Obama administration officials returning to their respective departments.

At Interior, Elizabeth Klein will serve as deputy secretary. She was formerly the department's associate deputy secretary. Kate Kelly, who held high-ranking positions at Interior under Secretaries Sally Jewell and Ken Salazar, will serve as the deputy chief of staff for policy.

Vicki Arroyo, who now leads the Georgetown Climate Center, and Joseph Goffman, who ran the Environmental and Energy Law Program at Harvard Law School, are returning to the EPA after both previously worked at its Air and Radiation Office.

EPA's new chief of staff Dan Utech formerly served in the Obama White House as deputy assistant to the president for energy and climate change. He will be joined by officials coming from environmental advocacy organizations such as the Environmental Defense Fund and the Natural Resources Defense Council.

The Energy Department's new chief of staff, Tarak Shah, is also a former Obama official, having worked as a chief of staff to the agency's undersecretary for science and energy.

Andrew Light, who served as an adviser to the U.S. special envoy on climate change and also worked on Washington Gov. Jay Inslee's climate-focused presidential campaign, is also joining DOE as its principal deputy assistant secretary for international affairs.

The Biden administration is also creating some new roles to further advance campaign pledges Biden made on issues like ensuring an equitable transition away from fossil fuels.

At DOE, the Biden team created new positions leading the department's efforts on energy jobs and energy justice, which will be held by Jennifer Jean Kropke, formerly of an electrical workers union, and Shalanda Baker, who was a professor at Northeastern University, respectively.

These positions are expected to advance Biden's campaign pledges to ensure that 40 percent of the benefits of clean energy investments go toward disadvantaged communities and that the agency's actions on energy create jobs.

Baker in particular will look at the agency's existing programs to ensure they are consistent with Biden's energy justice campaign promises.

Some argued the experienced picks could help lighten tension between career officials and political appointees.

"It's a very knowledgeable and experienced crew, and I think this will be a great reassurance to the career staff at the agency as well," said Stan Meiberg, a former acting deputy administrator for the EPA during the Obama years who now teaches at Wake Forest University.

"That's both because of the people but also the tenor and tone of the relationship the president has set between politicals and career staff, and that's a contrast to what happened under the previous administration," he said.

But even if agency relationships are less tense, the dynamics with Congress may largely stay the same.

"On the Biden administration's very first day, it took several big steps in the wrong direction," said Sen. Mitch McConnell (Ky.), the top Republican in the Senate, citing the Paris agreement and Keystone pipeline decisions.

Aperia secures EPA honor

Aperia Technologies' Halo Tire Inflator earned the technology supplier 2020 Clean Air Excellence Award for Transportation Efficiency Innovations.

HTTPS://WWW.FLEETOWNER.COM/RUNNING-GREEN/PRESS-RELEASE/21152985/APERIA-SECURES-EPA-HONOR

JAN 25, 2021

The U.S. Environmental Protection Agency (EPA) recently honored Aperia Technologies with a 2020 Clean Air Excellence Award in the Transportation Efficiency Innovations category for its Halo Tire Inflator.

The award is the EPA's highest national recognition for a project based on its impact, innovation and replicability in improving the nation's air quality. Aperia is a supplier of efficiency and safety-enhancing tire management technologies.

"For 17 years, the Clean Air Excellence awards have honored those who go above and beyond to improve air quality both at the local and national level," said Anne Austin, principal deputy assistant administrator for

EPA's Office of Air and Radiation. "Our winners' inspirational dedication to environmental protection is a model for all of us, and we look forward to many more years of clean air innovation and collaboration."

With the Clean Air Excellence Award, the EPA recognizes and highlights the Halo Tire Inflator for its outstanding innovative contribution to achieving cleaner air in the category of transportation efficiency innovations, Aperia said.

Even a slightly underinflated tire increases the rolling resistance of a vehicle, thereby directly increasing fuel consumption and emissions.

Used extensively by leading commercial trucking fleets since 2015, the Halo is an automatic tire inflation system for trucks and trailers that installs in minutes and eliminates tire underinflation.

The Halo Tire Inflator delivers one of the greatest impacts on sustainability per dollar invested for trucking fleets than any other retrofittable efficiency technology, the company maintained. By actively combating tire underinflation, Halo helps commercial vehicle fleets tackle sustainability objectives while also delivering a rapid ROI by mitigating the impact of tire underinflation.

Since its introduction, Halo has covered more than 22 billion miles, Aperia said.

"We are able to reduce carbon emissions by 9 million tons and keep 5 million tires out of landfills every year by equipping all heavy-duty commercial trucks in the United States with the Halo tire management platform," said Josh Carter, CEO of Aperia Technologies. "We founded our company on the promise that we can 'change the world, one revolution at a time,' and today our team celebrates that we are delivering on that promise and that we are serving the environment with our highest effort and dedication.

"We are deeply honored by this award."

Biden's Clean-Air, Climate Actions Seen as Benefit for PA

https://www.publicnewsservice.org/2021-01-25/climate-change-air-quality/bidens-clean-air-climate-actions-seen-as-benefit-for-pa/a72919-1x

January 25, 2021

HARRISBURG, Pa. -- Environmental advocates say President Joe Biden's actions on clean air and climate will make a big difference for air quality in the Keystone State.

The executive orders signed by the president on his first day in office will start reversing some of the most aggressive moves by the Trump administration to weaken or eliminate clean-air and climate-protection regulations.

Joe Minott, executive director and chief counsel for the Clean Air Council, said that's welcome news for areas such as Pittsburgh, which are consistently on the American Lung Association's list of cities with the worst, year-round air pollution.

"We're going to see a tightening of some of the pollution standards that will be allowed," Minott observed. "And I think we may see better enforcement of environmental laws in general."

While some Republicans are calling for Senate review of Biden's order rejoining the Paris Climate Agreement, Minott noted both major parties generally are in agreement on environmental issues.

"The new normal is coming back, where the Environmental Protection Agency is in fact going to protect the environment, which means protecting public health, and I think that's a great thing," Minott commented.

He pointed out many of the environmental regulations weakened by the Trump administration also are being restored by the courts.

Last week, a federal court overturned the Trump EPA's replacement for the Obama administration's Clean Power Plan. Minott believes the trend will continue.

"I think that we will see a resurgence of regulations at the federal level to deal with mercury from power plants, greenhouse-gas emissions from power plants, and that is absolutely needed," Minott contended.

He added because regulations such as auto-emission standards had been rolled back, new regulations will have to be even tighter to meet clean air goals, but the technology to do it is there.

Uranium Ore Site Must Meet Drinking Water Requisites, Tribe Says

https://news.bloomberglaw.com/environment-and-energy/uranium-ore-site-must-meet-drinking-water-requisites-tribe-says?context=search&index=1

BY SYLVIA CARIGNAN

Jan. 25, 2021

A South Dakota uranium recovery project shouldn't be exempt from drinking water protections, the Oglala Sioux Tribe said in its request for a federal appeals court to review the EPA decision.

The tribe filed its petition in the U.S. Court of Appeals for the Eighth Circuit over the Environmental Protection Agency's exemption for the Dewey-Burdock In-Situ Recovery Project in Custer and Fall River Counties, S.D.

The EPA issued the Nov. 24 exemption to allow a substance to be injected into aquifers in the project area to recover uranium ore from deposits. The substance, a lixiviant, allows the uranium to be removed and pumped to the surface.

The company that requested the exemption, Powertech Inc., anticipates building 1,461 injection wells and 869 production wells in the area over the life of the project, according to the agency's record of decision.

As part of its underground injection permit, Powertech is required to monitor injection fluids to prevent them from moving outside the wellfield. The company's license under the Nuclear Regulatory Commission requires Powertech to conduct groundwater restoration after uranium recovery is finished, in order to meet commission-approved drinking water standards, according to the EPA decision.

The agency evaluated the groundwater quality of the aquifers within the 1,970 acre exemption area. The groundwater would need reverse osmosis treatment to reduce the amount of iron, manganese, and dissolved substances before it is drinkable, the EPA said in its record of decision.

The land in the Dewey-Burdock Project Area is mainly used for cattle grazing, and it is unlikely the population would grow enough to need a public water system, the EPA said.

The tribe's petition was filed Jan. 22.

Cause of Action: Administrative Procedure Act; National Environmental Policy Act; National Historic Preservation Act; Safe Drinking Water Act.

Relief: Judicial review.

Response: The agency didn't immediately respond to a request for comment.

Attorneys: Western Mining Action Project and Energy & Conservation Law are representing the tribe.

The case is Oglala Sioux Tribe v. EPA, 8th Cir., No. 21-1167, 1/22/21.

AMERICAS: EPA ANNOUNCES $46 MILLION IN FUNDING TO REDUCE DIESEL ENGINES EMISSIONS

https://www.bunkerspot.com/americas/52314-americas-epa-announces-46-million-in-funding-to-reduce-diesel-engines-emissions

By Rhys Berry
January 25, 2021

The US Environmental Protection Agency (EPA) has announced the availability of grant funding for projects which reduce emissions from the nation's existing fleet of older diesel engines.

The EPA anticipates awarding approximately $46 million in Diesel Emissions Reduction Act (DERA) grant funding to eligible applicants, subject to the availability of funds, and expects to award between 40 and 70 assistance agreements.

'The DERA program continues to provide much needed assistance to agencies and ports to improve poor air quality in communities across America,' said EPA Administrator Andrew Wheeler. 'Over the last three years, EPA has provided nearly $300 million in grants and rebates to modernise diesel fleets with cleaner heavy-duty trucks and equipment.'

EPA is soliciting applications nationwide for projects that 'significantly reduce diesel emissions and exposure', especially from fleets – including commercial marine vessels – operating at goods movements facilities in areas designated as having poor air quality. Applicants may request funding to upgrade or replace diesel-powered marine engines, as well as buses, trucks, locomotives and non-road equipment with newer, cleaner technologies.

Priority for funding will also be given to projects that engage and benefit local communities and applicants that demonstrate their ability to promote and continue efforts to reduce emissions after the project has ended.

Biden administration to review contentious EPA landfill emissions regulation

https://www.wastedive.com/news/biden-epa-landfill-methane-climate/593869/

By Megan Quinn
Jan. 25, 2021

The image by Alan Levine is licensed under CC BY 2.0

Dive Brief:

- The Biden administration will review the U.S. EPA's contentious Emission Guidelines for Municipal Solid Waste Landfills (EG) regulation that has been stalled in legal battle for several years, a hint that the new administration may aim to speed the implementation process.
- The 2016 regulation set forth emission guidelines for certain MSW landfills to limit greenhouse gas emissions, directing states to submit plans for complying with the emissions rules, and the EPA to create a federal plan to cover states that do not create their own.
- President Biden announced the review through an executive order on his first day in office, signaling his administration wants the EPA to put states "back on the clock for getting their rules done" and

prompt the EPA to move forward with issuing its federal plan, said Pat Sullivan, senior vice president at SCS Engineers.

Dive Insight:

The executive order is the latest development in a long legal battle over the EG rule. Though it's not clear when the states and the EPA would be required to finalize their compliance plans, the Biden administration's inclusion of this landfill emissions rule in its executive order signals the EPA's window for further delaying implementation could be closing, Sullivan said.

Addressing climate change is a major part of President Biden's agenda, and landfills are a significant source of methane emissions and a major contributor to global warming, according to the Intergovernmental Panel on Climate Change. Gina McCarthy, who was EPA administrator when the original rule came out in 2016, is back under Biden as a national climate advisor.

The EG rule applies to more than 1,900 MSW landfill sites in the United States and encompasses any MSW landfills that have accepted waste since Nov. 8, 1987. A separate New Source Performance Standards rule applies to any MSW landfills constructed since July 17, 2014.

The EG rule requires states to develop their own implementation plans for compliance, but initial plans were only submitted by regulators in Arizona, California, Delaware, New Mexico and West Virginia. Other state agencies have said they are unsure about whether to submit their own plans or wait for a future federal plan.

Under the Trump administration, the EPA sought to delay finalizing its federal landfill emissions plan and put off approval of any state plans. Industry associations and companies have supported the EPA's request for a delay, in part because of confusion over what the rules could mean for landfill costs and operations. The National Waste & Recycling Association, one of the industry players that initially sought to challenge the regulations, declined to comment.

Attorneys general from eight states, along with the Environmental Defense Fund, have challenged the delay in court, but the latest ruling from the Ninth Circuit Court of Appeals sided with the EPA's appeal in October. The plaintiffs challenged that decision by asking for a stay in December, but a federal judge denied the request on Jan. 19.

The landfill emissions regulation is one of about 100 included in Biden's executive order. The list encompasses regulations and other executive actions issued by the Trump administration, and about half of the agency actions listed for review fall under the scope of the EPA. The list also includes two rules related to the disposal of coal ash from electric utilities.

Kevin Minoli, a former senior official in EPA's Office of General Counsel, said in a statement that the list "should not be viewed as the death knell" for the EPA actions listed. He anticipates the Biden administration will take "appropriate action" on each item, allowing those regulated to weigh in on what that action could look like.

EPA Pulls Biogenic GHG Emissions Rule, Air Modeling Guide From OMB

https://insideepa.com/daily-news/epa-pulls-biogenic-ghg-emissions-rule-air-modeling-guide-omb

By *Stuart Parker*
January 22, 2021

The Biden EPA has withdrawn from White House pre-publication review a long-pending Trump administration proposal to exempt some biogenic greenhouse gas emissions from Clean Air Act permitting mandates, and it has also pulled a separate proposed guidance on modeling ozone and fine particulate matter (PM2.5) emissions.

The two withdrawals took place Jan. 21 one day after President Joe Biden's Chief of Staff Ronald Klain issued a memo to EPA and all other agencies announcing a "freeze" of all pending regulations, so that the new administration can review a host of Trump administration policies for potential revision or reversal.

The Trump EPA sent its proposed biomass emissions rule for mandatory White House Office of Management & Budget (OMB) pre-publication review Feb. 24, where it remained. The administration first announced its plan for the rule in the Spring 2018 Unified Agenda of pending policies, and in the most recently updated Fall 2020 Unified Agenda EPA said that it still planned to issue the rule but the date of the action was "to be determined."

The plan labeled biomass energy as carbon-neutral, but the Trump administration delayed its issuance pending legal arguments in litigation over its Affordable Clean Energy (ACE) power plant GHG rule. The Department of Justice was said to have concerns that issuance of the biomass policy would undercut the agency's defense of the ACE rule, which relied on the use of source-specific controls.

The biomass proposal was expected to say biomass is carbon neutral because forest regrowth offsets emissions at the stack of biomass power plants.

However, the U.S. Court of Appeals for the District of Columbia Circuit vacated ACE in a Jan. 19 ruling. Judges during October oral argument on rule repeatedly pressed EPA on why it had excluded biomass as a way for states to comply with ACE.

Many environmentalists and others question whether biomass should be labeled carbon-neutral, given its potential to increase GHGs in the near term, although industry groups using forest products strongly support such a finding.

The Biden administration on Jan. 21 also withdrew from OMB review a proposed guidance document outlining how state and federal air quality modelers should approach modeling emissions of ozone and PM2.5. EPA had sent the guidance for OMB review on Jan. 12, but the plan had not yet appeared in the Unified Agenda.

The withdrawn notice appears to refer to a Feb. 10 draft that outlined a "a two-tiered demonstration approach for addressing single-source impacts" of industrial projects on ozone and PM2.5 first promoted by EPA in 2017. The technical guidance applied to air permitting under the new source review (NSR) program, in order to determine the likely pollution impacts and therefore the air permitting obligations of an industrial project.

The first tier of analysis "involves use of technically credible relationships between precursor emissions and a source's impacts," according to the February draft. The second, more in-depth tier "involves application of more sophisticated case-specific chemical transport models (CTMs), e.g., photochemical grid models, to be determined in consultation with the EPA Regional Offices," the draft guidance said.

EPA Asks DOJ To Seek Stays Of Litigation Challenging Agency Rules

https://insideepa.com/daily-news/epa-asks-doj-seek-stays-litigation-challenging-agency-rules

By *Lara Beaven*

January 22, 2021

EPA Acting General Counsel Melissa Hoffer is officially asking the Justice Department (DOJ) to seek judicial pauses in pending litigation challenging agency rules or seeking to establish a deadline for EPA regulation, in order to provide the Biden administration time to review a slew of lawsuits before deciding how to proceed.
In a Jan. 21 letter to Jean Williams and Bruce Gelber, deputy assistant attorneys general within DOJ's Environment and Natural Resources Division, Hoffer says her request conforms with President Joe Biden's "Executive Order [EO] on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis."
The Jan. 20 order, which Hoffer references as the "Health and Environment" EO, directs the heads of all agencies to "immediately review all existing regulations, orders, guidance documents, policies and any other similar agency actions" taken during the entire Trump administration, starting on Jan. 20, 2017, "that are or may be inconsistent with or present obstacles to the policy" goals of the new order.
Hoffer says her letter "will confirm my request on behalf of the U.S. Environmental Protection Agency (EPA) that the U.S. Department of Justice (DOJ) seek and obtain abeyances or stays of proceedings in pending litigation seeking judicial review of any EPA regulation promulgated between January 20, 2017, and January 20, 2021, or seeking to establish a deadline for EPA to promulgate a regulation in connection with the subject of any such regulation, in order to provide an opportunity for new Agency leadership to review the underlying rule or matter."
She also references a Jan. 20 memorandum from Biden Chief of Staff Ronald Klain that announced a regulatory "freeze" for EPA and all other federal agencies blocking them from pursuing any rulemaking efforts until the new administration can review the policies.
"For a case where an abeyance or stay of proceedings is not feasible, we request that DOJ seek extensions of time that are of sufficient duration to allow this review," Hoffer writes. "While these rule cases are a particularly high priority, we also anticipate that a similar request may apply for additional cases in a defensive posture. For any case that you believe merits separate consideration, or for which you believe an abeyance, stay of proceedings, or sufficient extension is not feasible, please promptly notify us and the involved EPA Office of General Counsel's Associate General Counsel for a discussion."
Hoffer says the EPA Office of General Counsel will work with DOJ to help implement the request.

Citizen Coalition Urges Biden To Tap PFAS 'Czar' To Oversee Federal Actions

https://insideepa.com/daily-news/citizen-coalition-urges-biden-tap-pfas-czar-oversee-federal-actions

By *Suzanne Yohannan*
January 22, 2021

A coalition of local citizen and environmental groups is urging the Biden administration to embrace aggressive measures to address per- and polyfluoroalkyl substances (PFAS), stressing the need for a White House PFAS "czar" to oversee policy and ensure accountability from the Defense Department (DOD) in addressing the chemicals.
The National PFAS Contamination Coalition, comprised of 18 groups in 16 states across the country fighting PFAS contamination, is pushing administration officials to embrace a 22-point action plan that lays out a series of aggressive steps for Biden to take on PFAS policy, including creating a high-level official to oversee federal agencies on the matter.

Anthony Spaniola and Andrea Amico, members of the coalition and with citizen groups in Michigan and New Hampshire, respectively, say the most significant action the coalition is seeking is for President Joe Biden to appoint someone at the White House level to oversee PFAS as part of an action item aimed at ordering DOD to more aggressively respond to PFAS contamination.

They say they are seeking to create a position similar to the one Biden created when he tapped former EPA Administrator Gina McCarthy to serve as a climate "czar," saying there have been systemic breakdowns among federal agencies on PFAS.

"This requires a massive coordinated effort," Spaniola tells *Inside EPA*.

The coalition -- which since its inception in 2017 has prompted attention from lawmakers -- also has backing from national environmental group leaders, who signed on as "allies" to the 22-point action plan and a corresponding letter to the Biden administration following the election.

Others who signed the letter include Environmental Working Group legislative attorney Melanie Benesh; the Natural Resources Defense Council's Senior Strategic Director Erik Olson; and Earthjustice attorney Eve Gartner.

The coalition reiterated its drive for implementing its action plan in a Jan. 11 release of several videos calling on Biden to act on PFAS contamination.

It is unclear whether, or how much, of the coalition's 22-point action plan the Biden administration may take up, but environmentalists are expected to press the new administration to implement its campaign pledges to regulate and study the risks of PFAS, among these the listing of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) as Superfund hazardous substances, which would trigger cleanup actions.

The group's push for the Superfund listings could be bolstered as many observers expect the new Democratically controlled Congress or the Biden administration to take such a step.

But Spaniola and Amico say the coalition's call for appointing a special PFAS advisor is the most important measure among the 22 items.

'Complete Overhaul And Transformation'

In a statement supplementing the plan, the two say meaningful action on PFAS has to involve "a complete overhaul and transformation of [DOD's] PFAS effort." If the federal government is "serious about PFAS, it must clean up its own act within the Department of Defense." DOD holds significant cleanup liability for PFAS, as it used the chemicals in firefighting foam used for training and extinguishing fuel fires across its bases. Spaniola says that PFAS cannot be addressed by simply changing a few policies.

"Given the long history of systemic mismanagement and deceit spanning several administrations, [DOD] cannot be left to reform itself," the two say in the statement.

"That's why our Coalition is calling for direct leadership, action and involvement from the White House by means of executive order, budgeting and personnel review, overseen and directed by a PFAS Czar in the Executive Office, with input from a Presidential Council including leaders from heavily impacted communities and exposed groups (such as veterans and firefighters). The Department of Defense must be transformed from a laggard on PFAS to a dynamic, proactive leader," they say in the statement.

At various times over the past several years, DOD has opposed efforts by both EPA and the federal Agency for Toxic Substances & Disease Registry (ATSDR) on PFAS issues, for instance challenging EPA on its cleanup goal for a groundwater cleanup guidance for PFOA and PFOS.

And in 2018, DOD sought to interfere with ATSDR's release of a draft toxicological profile on four PFAS that included more conservative risk estimates than EPA had used.

Amico says one of the biggest breakdowns has been that no one has held DOD accountable when it puts pressure on EPA behind the scenes not to regulate the chemicals.

In addition, Amico and Spaniola say strong leadership and inter-agency coordination from the White House is needed for such a large public health challenge. The czar should "also be charged with overseeing and managing a streamlined and coherent PFAS effort across all agencies of the federal government."

They also note that Rep. Dan Kildee (D-MI), who co-chairs the bipartisan PFAS congressional task force and has pushed legislation to require EPA regulation of PFAS, in a Nov. 23 article in *MLive* voiced support for a White House coordinated, inter-agency PFAS initiative.
A spokesman for Kildee's office could not comment on the matter at press time.
Spaniola and Amico cite the Michigan PFAS Action Response Team (MPART) as a potential model for the federal government. MPART was created in 2017 by executive order to work across agencies on investigating sources and locations of PFAS and protecting drinking water.

22 Items

The 22 items in the PFAS contamination coalition agenda were developed by coalition members impacted by PFAS contamination across the country with months of discussion and strategizing, a spokeswoman for the coalition says.
The list includes calls for regulatory measures, testing protocols and boosted budgets, with Spaniola noting that DOD's budget for addressing the matter is "anemic." Among the budgetary measures is one calling on White House involvement in ensuring DOD's PFAS cleanup budget requests "are dramatically increased," as well as federal government assistance to states "with resources to address PFAS and hold polluters responsible financially, so the additional costs do not fall onto impacted communities."
On the regulatory front, the group calls for regulating the chemicals -- which number in the thousands -- as a class, setting a stringent federal drinking water limit of 1 part per trillion for all PFAS or mandating a health-protective treatment technique for the class, placing a moratorium on all new PFAS approvals, listing and regulating PFAS under the Clean Water Act and the Clean Air Act and designating the chemicals as hazardous substances under Superfund law, and updating EPA's Significant New Use Rule to reflect all uses of all PFAS.
And on testing, it calls for setting an Unregulated Contaminant Monitoring Rule 5 (UCMR 5) that requires public drinking water suppliers to test for at least 29 PFAS -- an action the Trump EPA Jan. 19 proposed to do.
It also asks the new administration to bar the use of biosolids on agricultural property "and update the sludge rule to require testing for PFAS until the use can be shown to be safe."
Further, the coalition calls for banning PFAS incineration and disposal and requiring safe storage of PFAS until safe disposal methods are discovered, prioritizing funding for research into disposal methods, setting a national protocol to remove, replace and store firefighting foam containing PFAS. It also notes that many communities must now pay for alternative water supplies and water treatment, but that polluters, including producers of PFAS, should be held accountable for contamination, including paying for blood testing, health studies, alternative water supplies and treatment.

Biden EO Might Signal Two-Track Plan For Vehicle GHG Rulemaking

https://insideepa.com/daily-news/biden-eo-might-signal-two-track-plan-vehicle-ghg-rulemaking

By *Doug Obey*
January 22, 2021

President Joe Biden's recent climate executive order (EO) might signal EPA will pursue a two-track plan for regulating vehicle greenhouse gases, with one track a swift reversal of the Trump administration's rollback of GHG rules through model year (MY) 2026 but a longer track pursuing stricter GHG rules for later years, sources say.
The EO that Biden signed Jan. 20 includes an array of preliminary deadlines for revisiting numerous Trump administration policies, including a July timeframe for initial action on federal vehicle standards while

remaining vague on the specifics. Among the uncertain issues is the stringency of GHG limits and whether to "decouple" EPA and National Highway Traffic Safety Administration (NHTSA) vehicle programs.
But observers are also suggesting that a possible Jan. 27 climate announcement by Biden on both domestic and international climate policies -- beyond the recent EO and related early actions -- could also give the administration another opening to further elaborate on its vehicle GHG policy plans.
EPA "clearly has the authority to go beyond model year 2026," says an environmentalist, suggesting the viability of the second longer track for pursuing more-stringent auto GHG limits after MY26.
"But to propose it by July . . . would be very ambitious," the environmentalist says of such a rulemaking.
A source tracking the issue largely agrees with that view, saying, "it is not possible" for the Biden administration to propose a post-MY26 regulatory approach by July.
But that does not mean that Biden must delay the start of efforts to craft such longer-term standards, the source says, suggesting the administration could pursue two concurrent tracks -- the first being the quick undoing of Trump-era vehicle GHG deregulatory actions and the second being the longer process of new regulations.
EPA staff "can begin cranking up now," on a longer-term effort even if putting out an actual regulation happens later, adds the source tracking the issue.
The section of the climate change EO focused on Trump administration rules says, "The head of the relevant agency, as appropriate and consistent with applicable law, shall consider publishing for notice and comment a proposed rule suspending, revising, or rescinding the agency action within the timeframe specified."
The EO specifies a July 2021 timeframe for initial action on the Trump administration's rollback of federal greenhouse gas and fuel economy standards through MY26, which was issued by NHTSA and EPA. That timeline is a few months later than the EO's suggested deadline of April 2021 for revisiting a separate Trump administration rule attacking state vehicle emissions programs.
"The literal reading of it is you've got to do something about the rollback [of federal standards out to MY26]," says a former agency staffer, with the recent EO "silent on what is going to come" for later years.
But the former staffer notes it is already clear that "you are not going to confront the climate crisis" without establishing ambitious GHG standards for autos well beyond MY26.
Biden has pledged to push toward decarbonizing the transportation sector in coming decades, and to pursue new vehicle standards that boost vehicle electrification.
One path forward could be focusing EPA's technical experts on the longer term rulemaking efforts, "because that is where the tough decisions are going to be," the former staffer says, while letting legal staff focus more heavily on "what you are going to do about the rollback."

Regulatory Path Forward

The EO document's July timeframe is silent on both the specifics of vehicle standards and the precise division of labor between EPA and NHTSA on the issue, at a time when the Biden administration has been considering a potential decoupling of the two agencies' vehicle regulatory activities.
The environmentalist says there is a significant existing record available to the Biden administration on standards out to MY26, including the ability to meet them without significant reliance on electrification.
The source contrasts that with what is necessary to issue longer term standards, adding, "[Getting to] model year 2030, that is going to involve building a technical record that hasn't been done before."
The EO's July 2021 timeframe appears to reflect a desire to "get the [Trump] rule cleaned up quickly," adds the source tracking the issue. "I think the auto industry wants that too."
Sources in this vein have previously cited an agreement between California and five automakers during the Trump administration as a potential model for near-term vehicle standards.
But Center for Biological Diversity Safe Climate Transport Campaign Director Daniel Becker in comments to *Inside EPA* says he has some concern at the EO's July timeframe, if any efforts to meet that deadline distract the Biden administration from efforts to achieve more-ambitious GHG cuts from the fleet. "The challenge is to do it well, not just to do it fast,' he says.

EPA can "both claw back" the Trump rollback and "set tough standards" aimed at decarbonizing the transportation sector by 2050, Becker adds.

EPA delivers results on PFAS Action Plan

The PFAS Action Plan is the most comprehensive cross-agency plan ever to address an emerging chemical of concern.

https://www.waterworld.com/drinking-water/potable-water-quality/press-release/14196103/epa-delivers-results-on-pfas-action-plan

Jan 25th, 2021

Photo by Sohaib Al Kharsa on Unsplash

WASHINGTON -- The U.S. Environmental Protection Agency (EPA) announced a suite of actions from across the agency that will continue the significant progress the agency has made to implement the PFAS Action Plan — the most comprehensive cross-agency plan ever to address an emerging chemical of concern. EPA has made progress in all of its program areas under the Action Plan, and the agency is helping states, tribes, and local communities across the country target PFAS reductions and protect public health.

EPA is issuing the following actions:

Moving Forward on Regulating PFOA and PFOS in Drinking Water by Issuing Final Regulatory Determinations

After evaluating more than 11,000 public comments, the agency is taking the next step to regulate these two PFAS under the processes laid out in the Safe Drinking Water Act by issuing final regulatory determinations for PFOA and PFOS. EPA will now initiate the process to develop a national primary drinking water regulation for these two PFAS, which will include further analyses, scientific review, and opportunity for public comment. Additionally, EPA intends to fast track evaluation of additional PFAS for future drinking water regulatory

determinations if necessary information and data become available. For additional information: www.epa.gov/safewater

Advance Notice of Proposed Rulemaking Addressing PFOA and PFOS in the Environment
EPA is issuing an Advance Notice of Proposed Rulemaking (ANPRM) to get public comment and data to inform the agency's ongoing evaluation of PFOA and PFOS. This information will also help the agency consider whether additional regulatory steps to address PFAS contamination in the environment are necessary. The agency is seeking comment about whether it should take any additional regulatory steps to address PFAS contamination in the environment, including, but not limited to, designating PFOA and PFOS and other PFAS chemicals as CERCLA hazardous substances and seeking comment on whether PFOA and PFOS and other PFAS chemicals should be subject to regulation as hazardous waste under RCRA. EPA will accept comments on the ANPRM for 60 days following publication in the Federal Register. For more information: https://www.epa.gov/pfas/epa-actions-address-pfas

New Data on PFAS in Drinking Water
EPA also proposed to collect new PFAS data under the fifth Unregulated Contaminant Monitoring Rule (UCMR 5). The new data will be used to better understand occurrence and prevalence of 29 PFAS in the nation's drinking water. The UCMR 5 proposal includes monitoring for six PFAS that were part of UCMR 3, now using new analytical methods that support lower reporting levels. EPA also proposes that an additional 23 PFAS be monitored using methods developed by EPA. In addition to PFAS, UCMR 5 proposes monitoring for lithium in drinking water. The proposal would require pre-sampling preparations in 2022, sample collection from 2023-2025, and reporting of final results through 2026. EPA is accepting public comment on the proposed UCMR 5 for 60 days following publication in the Federal Register. EPA will hold a virtual stakeholder meeting twice during the public comment period. For additional information: www.epa.gov/safewater

Releases Toxicity Assessment for PFBS
EPA is releasing a toxicity assessment for perfluorobutane sulfonic acid (PFBS). Today's PFBS assessment is part of EPA's efforts to increase the amount of research and information that is publicly available on chemicals in the PFAS family. This assessment is not a regulation, rather it provides a critical part of the scientific foundation for human health risk assessment decision-making. The information in the PFBS toxicity assessment may be used by federal partners, states, tribes, and local communities, along with specific exposure and other relevant information to determine, under the appropriate regulations and statutes, if and when it is necessary to take action to address potential risks associated with human exposures to PFBS. The PFBS assessment provides toxicity values and information about the adverse effects of the chemical and the evidence on which the value is based, including the strengths and limitations of the data. All users, including risk assessors and risk managers, are advised to review the information, including potential uncertainties, provided in this document to ensure that the assessment is appropriate for the circumstances (e.g., exposure pathways, concentrations, presence of sensitive subpopulations) in question and the risk management decisions that would be supported by the risk assessment. For additional information: https://www.epa.gov/pfas/epa-actions-address-pfas

Next Steps to Address PFAS in Wastewater
Additionally, EPA announced next steps to address PFAS in wastewater, where appropriate. The agency announced an Advance Notice of Proposed Rulemaking to collect data and information regarding manufacturers of PFAS and the presence and treatment of PFAS in discharges from these facilities. EPA is also requesting information regarding PFAS formulators—facilities that produce a variety of PFAS products and materials from PFAS feedstocks. This action is based on information the Agency has collected as described in

the recently finalized Effluent Guidelines Program Plan 14. The information collected through this action will help inform whether these industrial sources warrant regulation through national Effluent Limitation Guidelines (ELGs) to address PFAS discharges.

Coordinating PFAS Research Across the Federal Government

EPA, in partnership with USDA, DOD and HHS, asked the National Academies of Sciences, Engineering, and Medicine (NASEM)'s to assess the federal government's research efforts into the human health effects of PFAS. A virtual public workshop was convened on October 26-27, 2020 where an independent panel of experts heard from government scientists and reviewed federal agency research to identify potential research and data gaps. A draft report is expected to be published later this week.

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Message

From: Gibson, Neshawne [Gibson.Neshawne@epa.gov]
Sent: 1/26/2021 8:56:42 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips January 26, 2021 (afternoon edition)

Daily News Clips January 26, 2021 (**afternoon edition)**

ACE
JD Supra: Affordable Clean Energy (ACE) Rule Vacated, But Appeal Still Possible

Administrative
Argi-Pulse: House Ag gets seven new Rs
EcoWatch: Biden Has Pledged to Advance Environmental Justice – Here's How the EPA Can Start

Asbestos
Bloomberg: Groups Want to Challenge Trump-Era Asbestos Risk Evaluation

PFAS
Bloomberg: EPA Urged to Fine Solvay $434 Million Over PFAS Test Results

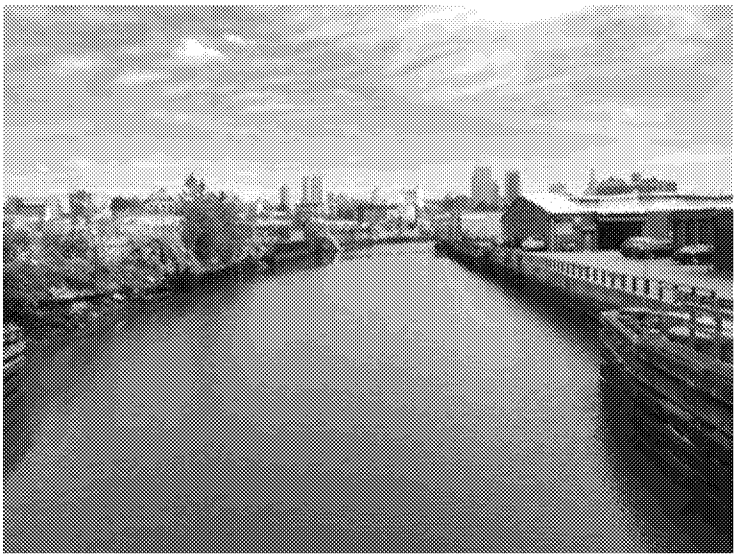
Water
Brooklyn Paper: GOWANUS CANAL SUPERFUND CLEANUP BARGE SINKS
Patch: Barge Full Of Gowanus Canal's Sediment Sinks
++

Barge Full Of Gowanus Canal's Sediment Sinks: EPA

A barge full of sediment dredged from the canal during the federal clean-up sunk in the Gowanus Bay this week, the EPA said in a statement.

https://patch.com/new-york/parkslope/barge-full-gowanus-canals-sediment-sinks-epa

By Anna Quinn
Jan 26, 2021



A barge full of sediment dredged from the canal during the federal clean-up sunk into the waterway this week, the EPA said in a statement. (Marc Torrence/Patch)

GOWANUS, BROOKLYN — A barge full of sediment dredged from the Gowanus Canal sunk into the Gowanus Bay this week, according to the U.S. Environmental Protection Agency.

Contractor Cashman Dredging told the federal agency on Monday that the barge, which was moored in the Gowanus Bay after dredging muck from the canal, had sunk, according to the agency's statement.

The incident comes several months into the federal clean-up of the Gowanus Canal, which will remove 32,000 cubic yards of toxic muck from the polluted waterway. The dredging was suspended while crews tried to secure the barge, the agency said.

"EPA's goals are to do all that we can do to ensure that this type of mishap does not happen again and that any impacts from yesterday's incident are appropriately and promptly addressed," the EPA wrote.

Cashman had mobilized pumps, booms and silt curtains to pump water from the sunken barge into a separate, empty barge during low tide, according to the EPA. They continued to stabilize the barge on Tuesday.

Subscribe
The EPA is working with the contractors to investigate the incident's cause, find out whether any of the contaminated sediment was released into the water and determine appropriate next steps.

Dredging officially started on the Gowanus Canal in November.

House Ag gets seven new Rs

https://www.agri-pulse.com/articles/15212-daybreak-jan-26-house-ag-gets-seven-new-rs

By Steve Davies, Bill Tomson, and Ben Nuelle

01/26/21

EPA asks DOJ to hit pause button on litigation

The Biden administration is taking a significant new step toward undoing the regulatory relief provided by former President Donald Trump's Environmental Protection Agency: The agency has asked the Justice Department to pause litigation involving Trump-era EPA rules that are being challenged in court.

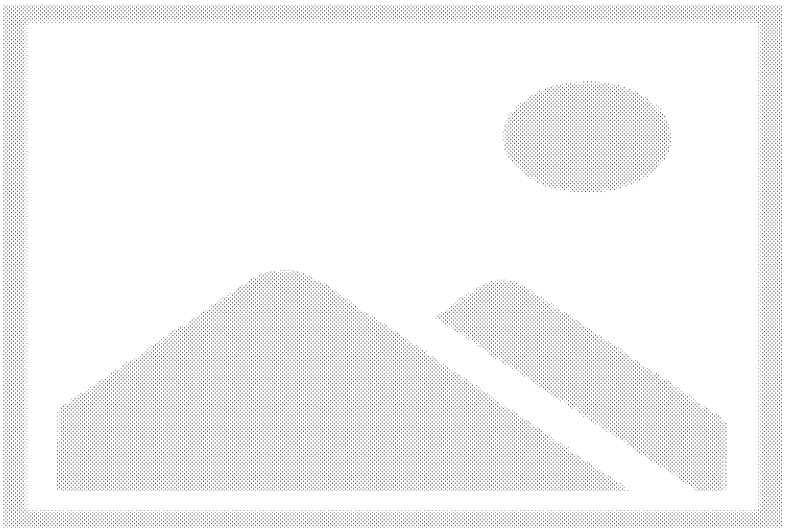
In a letter, Acting EPA General Counsel Melissa Hoffer asked that DOJ lawyers "seek and obtain abeyances or stays of proceedings in pending litigation seeking judicial review" of any EPA rules issued by the Trump administration, "or seeking to establish a deadline for EPA" to issue regulations.

Why it matters: The cases affected include challenges to the Navigable Waters Protection Rule, which replaced the Obama-era "waters of the U.S. rule." Also affected: EPA's implementation of the National Environmental Policy Act. Both rules are on a long list targeted for review by the new administration.

Cabinet watch: The Senate overwhelmingly confirmed Janet Yellen as Treasury secretary Monday evening.

The National Cattlemen's Beef Association and many of its state affiliates are throwing their support behind three of Biden's nominees: Tom Vilsack for USDA, Michael Regan for EPA and Katherine Tai for U.S. Trade Representative.

NCBA has sent the Senate separate support letters on each nominee. The letter backing Regan says his previous experience with "both EPA and North Carolina's Department of Environmental Quality will be exceedingly valuable as he seeks to foster productive relationships in his role as EPA Administrator."



Biden ditching poultry line speed proposal

Another regulatory relief initiative of the Trump administration has been sidelined with USDA's withdrawal of a proposed rule that would let poultry plants increase line speeds. The department tells Agri-Pulse the action is in line with President Joe Biden's order to agencies to take a new look at the Trump administration's late actions.

The poultry industry isn't ready to give up on the plan. National Chicken Council Senior Vice President of Scientific and Regulatory Affairs Ashley Peterson called the withdrawal "a standard process that every incoming administration does" so it can review pending regulations before deciding on a course of action.

Despite an increase in line speeds at some plants from 140 birds per minute to 175, NCC says illness and injury rates at poultry plants have been falling.

But, but but: The Humane Society Legislative Fund, Food & Water Watch and the National Council for Occupational Safety and Health applauded the move. HSLF President Sara Amundsen said the rule would have been "an animal welfare and worker safety nightmare."

Taiwan lifts more restrictions on US ag

Taiwan has made clear that it wants a free trade agreement with the U.S., and the country continues to lift barriers to ag trade. The USDA's Foreign Agricultural Service says the latest move by Taiwan was to remove restrictions that required U.S. blueberries and onions to go through an "enhanced" quarantine treatment that made it 50% more likely they would get inspected.

Related Articles

Ag districts maintain representation with new House Ag GOP additionsDaybreak Jan 14: Ag district members break GOP ranks on impeachmentDaybreak Nov 3: House Ag chair's future among many election Qs
Taiwanese President Tsai Ing-wen announced over the summer that the country would lift restrictions on ractopamine residue is pork and cattle slaughter age restrictions on beef.

Bi-khim Hsiao, head of Taipei Economic and Cultural Representative Office in the U.S. – what is essentially Taiwan's embassy in Washington – attended Biden's inauguration. "I look forward to working with the next U.S. administration in advancing our common values and interests," she said,

US, EU groups press for tariff removals

U.S. and European ag groups are pressing Biden and European Commission President Ursula von der Leyen to suspend tariffs on goods ranging from orange juice to cheese that have been levied because of clashes over aircraft subsidies and steel and aluminum trade.

"The ongoing EU-U.S. trade disputes and additional tariffs, which continue to plague Trans-Atlantic trade, have made a bad situation worse," the groups say in a letter to both presidents. "With the damages we have suffered last year and are still suffering, the current situation cannot be allowed to go on any longer."

The groups include the American Soybean Association, Florida Citrus Mutual, American Bakers Association, American Frozen Food Institute, National Association of Wheat Growers, Corn Refiners Association and the USA Rice Federation.

Biden often talked about strengthening U.S. ties with the European Union on the campaign trail and he reiterated that commitment Sunday in a call with French President Emmanuel Macron.

Former USDA economist: Vaccine key to ag economy

Former USDA Chief Economist Joe Glauber says the Biden administration's rollout of vaccinations will be critical for quick improvement of the food and agriculture sectors.

"Getting the disease under control is going to be, long term … what is going to get this economy going and bring people back to restaurants," said Glauber, who is now senior research fellow at International Food Policy Research Institute. Glauber was speaking on a webinar in conjunction with the International Dairy Foods Association's annual Dairy Forum.

Despite a reduction in COVID-19 cases at meat processing plants, the food supply chain is still vulnerable and needs a lot of attention to ensure the safety of plant workers and avert additional disruptions, Glauber said.

Global hunger worsens sharply on pandemic

USDA is now estimating 921 million people in the world's poorer countries are food insecure, an increase of 160 million since the COVID-19 pandemic began. The new estimate is based on a fresh set of macroeconomic projections for 76 low- and middle-income countries.

Gross domestic product in those countries fell by more than 5% in 2020 as a result of the pandemic, according to USDA's Economic Research Service.

USDA still expects the food-insecure population to fall dramatically over the coming decade as incomes rise, dropping to 513 million by 2030. But that's 27% higher than what USDA had been projecting.

He said it: "I feel confident that by summer we're going to be well on our way to, heading toward, herd immunity." – President Biden told reporters Monday. He said he thinks vaccines should be available to anyone who wants them by this spring.

GOWANUS CANAL SUPERFUND CLEANUP BARGE SINKS

https://www.brooklynpaper.com/breaking-gowanus-canal-superfund-cleanup-barge-sinks/

By Kevin Duggan

Jan 26, 2021

A barge ship loaded with polluted sediment from the Gowanus Canal sank in the Gowanus Bay, the Environmental Protection Agency revealed in a statement Tuesday.

The boat containing the dredged material from the canal bed containing toxic materials like coal tar was moored in Gowanus Bay and became submerged, contractor Cashman Dredging told the federal agency Monday.

The company has mobilized pumps, booms, and silt curtains to the location — which EPA did not immediately specify — and pumped water from the sunken vessel into a different empty barge during low tide as operations to stabilize the boat continue Tuesday, according to the agency.

EPA is investigating the incident to determine the cause, whether contaminated sediment got into the water, and to evaluate next steps, according to the Jan. 26 release.

"EPA's goals are to do all that we can do to ensure that this type of mishap does not happen again and that any impacts from yesterday's accident are appropriately and promptly addressed," the statement read. "EPA will update the public as more information becomes available."

The EPA-managed dredging of the upper third of the Gowanus Canal launched in November to scoop out polluted sediment, before stabilizing the ground and capping it with a protective layer.

This story is breaking. Check back for further developments.

Biden Has Pledged to Advance Environmental Justice – Here's How the EPA Can Start

https://www.ecowatch.com/epa-biden-environmental-justice-2650143840.html?rebelltitem=8#rebelltitem8

By David Konisky

Jan. 26, 2021

On his first day in office President Joe Biden started signing executive orders to reverse Trump administration policies. One sweeping directive calls for stronger action to protect public health and the environment and hold polluters accountable, including those who "disproportionately harm communities of color and low-income communities."

To lead this effort Biden has nominated Michael Regan to head the U.S. Environmental Protection Agency (EPA). Regan, who currently heads North Carolina's Department of Environmental Quality, would be the first Black man to serve as EPA administrator in the agency's 50-year history. His appointment has fueled expectations that the agency will make environmental justice a top priority.

The EPA first created an Office of Environmental Justice in 1992, but I know from my research on decades of the agency's work that it has never given the issue sustained attention. Despite activism from a growing environmental justice movement, widespread evidence that pollution over-burdens poor and minority communities, and a Clinton-era executive order that mandated federal action, the EPA has largely failed to modify its programs, policies and decision-making processes in response.

The agency's toolkit for taking on environmental injustice is limited. Current environmental laws do not require it to craft policies to address unequal pollution burdens, and in some cases they make it difficult to do so. Several House and Senate members have introduced bills to give the EPA such a mandate, and they may try again in the new Congress. But the agency can get started before that happens.

Boost Inclusion and Enforcement

In my view, EPA officials can advance environmental justice immediately by striving for inclusive decision-making. This means not just listening to people of color and other communities suffering from pollution burdens, but empowering them to be involved in decisions that affect their lives.

Historically the EPA has too often taken an "announce-and-defend" approach to its decisions. By giving these communities more voice, I believe the agency will make better decisions and show that it is committed to changing its historical insensitivity to environmental justice goals.

Second, EPA leaders should prioritize enforcement activities in overburdened communities. Numerous studies have shown that federal and state agencies conduct fewer inspections and impose lighter penalties when offending pollution sources are located in low-income neighborhoods and communities of color. Researchers have documented this pattern on issues including air pollution, drinking water and hazardous waste management.

EPA enforcement has declined for many years, so the agency needs to ramp up these efforts overall. But its leaders have full discretion to target enforcement toward companies located in communities that are heavily polluted. And they can use existing resources, such as the EJSCREEN mapping tool, to help identify these communities.

EPA officials will need to coordinate these enforcement efforts with the U.S. Department of Justice, which is responsible for prosecuting cases. In addition, the EPA will need to set clear expectations that states, which do the lion's share of enforcement, also prioritize environmental justice communities.

Spotlight Discrimination and Analyze New Rules for EJ Impact

Another thing the EPA can do now is make better use of its authority under the Civil Rights Act of 1964. Specifically, Title VI of the Civil Right Act prohibits organizations that receive federal funds from discriminating against protected groups. This includes state and local agencies that issue permits and carry out other activities to implement federal pollution control laws.

As external assessments have shown, the EPA has an abysmal record of applying Title VI. Historically it has not been willing to make findings of discrimination, or in many cases even to conduct serious investigations of credible allegations. In one of the few exceptions, when Michigan officials approved siting the Genesee Power Station in a predominantly Black neighborhood of Flint, Michigan, over community objections, the agency's finding that this was discriminatory came 25 years after the initial complaint.

The EPA can improve this process by opening its door to Title VI claims and handling them promptly and fairly. Doing so will show environmental justice communities that it takes their concerns seriously, and make clear to state and local agencies that discrimination is not acceptable.

Michael S. Regan, President Biden's nominee to lead the U.S. Environmental Protection Agency, grew up near a coal-burning power plant in North Carolina and has pledged to "enact an environmental justice framework that empowers people in all communities." NCDEQ

A fourth immediate action the EPA can take is to make it routine practice to consider environmental justice in its rule-making. President Clinton's 1994 executive order suggested doing this, but unlike traditional cost-benefit analysis, it is not a regular part of agency decision-making.

Fortunately the EPA already has guidance that was published in 2016 showing how to do environmental justice analysis. Through more careful attention to how new rules affect low-income communities and communities of color, the agency can make its decisions more transparent and adopt policies with fewer impacts on already overburdened communities.

Achieving environmental justice is a long-term project, and the EPA is just one of many government agencies that need to change their ways before the U.S. can make progress. Eventually Congress will need to provide the EPA with new tools. Until that time, the agency can more effectively use its current authorities to get started.

David Konisky is a professor of public and environmental affairs at Indiana University.

Disclosure statement: David Konisky does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

Affordable Clean Energy (ACE) Rule Vacated, But Appeal Still Possible

https://www.jdsupra.com/legalnews/affordable-clean-energy-ace-rule-9012667/

By Melissa Horne

Jan 26, 2021

On January 20, the last full day of the Trump administration, a three-judge panel of the D.C. Circuit Court of Appeals vacated the Affordable Clean Energy (ACE) rule, the Trump EPA's replacement rule for the Clean Power Plan. The Clean Power Plan was a cornerstone of the Obama EPA's efforts to address climate change and would have required electric utilities to shift generation from fossil fuels to renewable resources. That aggressive rule was halted by an unprecedented stay of the rule by the Supreme Court, but a decision on the merits has never been issued because the Trump administration took office and put the litigation on hold. In its January 20 opinion, the D.C. Circuit has now issued the first decision on the merits of the legal issues underlying both ACE and the Clean Power Plan.

Key to the decision was the court's rejection of EPA's claim that the Clean Air Act (Act) does not allow for the generation shifting required under the Clean Power Plan. In ACE, EPA read Section 111 of the Clean Air Act to preclude generation shifting because it only authorizes EPA to impose standards that reflect measures that can be applied at an individual source. The per curiam opinion from Judges Millett, Pickard, and Walker rejected that theory. The court held that Section 111 does not unambiguously limit the "best system of emissions reduction" to measures that can be taken at a particular source, stating that the interpretation underlying ACE "is simply not supported by the text, let alone plainly and unambiguously required by it."

In its lengthy opinion, the court also dismissed arguments that the Clean Power Plan was illegal under the "major questions" doctrine because the court did not view it as an extraordinary exercise of administrative authority. The court also shot down an argument from coal industry petitioners that EPA does not have authority to regulate GHGs from existing power plants at all because they are already regulated under Section 112 of the Act. Judge Walker, however, issued an opinion expressing his agreement with both of these legal theories. In addition to vacating the ACE rule, the D.C. Circuit vacated changes to procedural rules that extended compliance deadlines for state plans submitted to EPA under Section 111.

With the ACE rule set aside and EPA's restrictive view of its authority under Section 111 dismantled by the D.C. Circuit panel, the Biden EPA might appear to have a blank check to write as it crafts its own plan for addressing GHGs from existing power plants. However, the litigation over the repeal of the Clean Power Plan and vacatur of the ACE rule is not necessarily over — the supporters of ACE will have 45 days to request a rehearing from the D.C. Circuit and 150 days to petition the Supreme Court for review of the decision. If the now even more conservative Supreme Court takes the same view of the Clean Power Plan hinted at in its unprecedented stay, there may be more to come in this protracted battle over EPA's authority to regulate greenhouse gases from existing power plants under the Clean Air Act.

Groups Want to Challenge Trump-Era Asbestos Risk Evaluation

https://news.bloomberglaw.com/environment-and-energy/groups-want-to-challenge-trump-era-asbestos-risk-evaluation?context=search&index=1

BY JENNIFER HIJAZI

Jan. 26, 2021

Scientists and public health groups started a legal fight Tuesday over the Trump administration's final chemical evaluation of asbestos.

The Asbestos Disease Awareness Organization, or ADAO, and others asked the U.S. Court of Appeals for the Ninth Circuit to review the former administration's final risk assessment for asbestos, which they said doesn't fully address the chemical's risks under the Toxic Substances Control Act.

The EPA published its final risk evaluation for cancer-causing chrysotile asbestos on Dec. 30, concluding that 16 of 32 uses of the material pose unreasonable risks to human health, including workers and consumers. The groups said in their notice of intent to sue that the evaluation for asbestos leaves out the dangers of "legacy" traces of the substance that already exist in insulation and building materials.

"The EPA's piecemeal and dangerously incomplete Final Risk Evaluation for Asbestos overlooks numerous sources of asbestos exposure and risk, and understates the enormous toll of disease and death for which asbestos is directly responsible," ADAO president Linda Reinstein said in a statement.

The evaluation is required under a 2016 amendment to the nation's key chemicals law that mandates EPA to evaluate the risk of certain chemicals to people and the environment.

Cause of Action: Alleged violations of the Toxic Substances Control Act.

Relief: Review of the final risk analysis.

Response: The EPA didn't immediately respond to a request for comment.

Attorneys: Robert M. Sussman of Sussman & Associates represents the petitioners.

The case is: Asbestos Disease Awareness Organization vs. EPA, 9th Cir. App., case not yet docketed, Petition for Review 1/26/21.

EPA Urged to Fine Solvay $434 Million Over PFAS Test Results

https://news.bloomberglaw.com/environment-and-energy/epa-urged-to-fine-solvay-434-million-over-pfas-test-results?context=search&index=2

BY STEPHEN LEE

Jan. 26, 2021

The Environmental Working Group petitioned the EPA on Tuesday to assess $434 million in civil and criminal fines against Solvay Specialty Chemicals for allegedly failing to report animal and human tests showing the health hazards of PFAS.

Solvay violated the Toxic Substances Control Act in failing until 2011 to report test results on two variants of a replacement chemical, chloroperfluoropolyether carboxylate, that it had agreed to start using, according to the petition. The group said Solvay's tests were made public only two months ago.

PFAS, or per- and polyfluoroalkyl substances, prized for their nonstick and waterproof properties, have been discovered in drinking water and human bodies nationwide, prompting state regulations and litigation.

"We suspect that Solvay deliberately kept these damning toxicity studies from the EPA—a serious violation of federal law that requires companies to immediately report any evidence they uncover that a chemical may pose a substantial health hazard," Ken Cook, president of the EWG, said in a statement.

Solvay didn't immediately respond to a request for comment.

This is a breaking story. Please check back for updates.

Neshawne Gibson

Office of the Administrator
US Environmental Protection Agency
Phone: (202) 566-1957
Mobile: (202) 603-7617

Message

From: Shoaff, John [Shoaff.John@epa.gov]
Sent: 1/25/2021 5:05:44 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: Upcoming G7 Mtg on Climate and Environment - Input requested by 1 PM today!
Attachments: Administrative Circular - G7 and Guest Countries.pdf; Commitments to Action - G7 Climate and Energy - Corrected Version.pdf; Food Loss and Waste G7 concept note.pdf; G7 One Health Concept Note.pdf; Ocean G7 concept note.pdf; UK G7 Presidency Sherpa 1 - Climate and Environment Issue Note.pdf

Importance: High

Joe, Tomas,

While we were in other meetings, this came in for what I would call an almost instantaneous review period – by 1 PM today! Believe input will inform State's Sue Biniaz who is representing the U.S. in initial G7 discussions tomorrow and would add this won't be the last bite at the apple on these matters.

The paper that seems most relevant is the "Commitments to Action – G7 Climate and Energy" (4th attachment) while the "UK G7 Presidency Sherpa 1 – Climate and Envt Issue Note" (last attachment) also includes relevant background on plans forward for the UK's hosting of the G7 and as it relates to issues of interest.

Henry Ferland on my staff and in Leif Hockstad's group leads our OAR international involvement and is checking with requisite programs and experts for any technical edits/feedback on the Climate-Energy paper and inclusions relating to power, transport, bldgs. & industry. Wanted to see if you also had any immediate reactions or counsel on the same? Will let you know if we get any suggested edits from staff.

We'll learn more from OITA/State on the upcoming G7 mtg schedule and opportunities for EPA involvement where it might be merited. In due course, we'll provide an update on this as well as brief you on our broader engagement, but please let me know if you've any questions in the interim or might want anything. Thanks.

John

JOHN SHOAFF | DIRECTOR
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Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 1/27/2021 6:35:20 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: UPDATED: Biden aims for climate 'big tent' to avoid Obama failures

UPDATED: Biden aims for climate 'big tent' to avoid Obama failures

By Zack Colman, Ben Lefebvre

01/27/2021 05:00 AM EST

President Joe Biden is launching his sweeping assault on climate change with a much larger army of allies than Barack Obama had 12 years ago — a coalition that ranges from labor unions, anti-fracking activists and racial justice advocates to leaders of Wall Street, the auto industry and the U.S. Chamber of Commerce.

But Biden also faces a challenge: holding together this teeming coalition, with its many competing agendas, long enough to break the logjam in Congress that doomed Obama's efforts to force his policy changes through Congress.

He's also pitching a much vaster climate plan than Obama ever attempted, with calls for trillions of dollars in new spending along with efforts to make combating global warming a prime mission for the entire executive branch.

"That big of a tent requires a big bank account, and that really to me is more of the question — how much money are they going to be willing to commit to this?" said Phil Smith, spokesperson for the United Mine Workers of America labor union. "How much money is Congress going to be willing to let them commit to this?"

The factions pushing to influence Biden's agenda also have far different priorities — including Bernie Sanders-supporting green groups that want to ban all oil and gas drilling, automakers anticipating new markets for electric cars and fossil fuel companies that hope U.S. climate action will leave room for them to continue to produce the oil and gas whose production had boomed under the previous three presidents.

Biden drew a sharp line between his plan to fight climate change and the Trump administration, which rolled back regulations, denigrated the science and turned its back on the global efforts to rein in the greenhouse gases pumping up the Earth's temperatures. Wednesday's flurry of executive orders have their roots in the policies he rolled during the campaign and the pledge to make climate change policy one of the administration's top priorities.

But the new president's approach also represents a striking change from Obama's efforts, which included a doomed attempt to pass climate legislation in 2009 that unraveled amid opposition from Republicans and fossil fuel advocates. Only in his second term did Obama attempt to push through major greenhouse gas limits through regulations — executive actions that were still mostly unfinished when Donald Trump took office and began unraveling them.

Now, climate advocates have an even stronger case to make that ignoring the changes that are driving devastating storms, wildfires and rising seas pose an even bigger risk than ignoring them.

Biden has tied his plan to an economic stimulus — a move that's drawn support from groups like the Chamber of Commerce, which previously opposed aggressive action from the federal government, as well as a raft of individual companies that are taking action at the behest of their customers and investors.

And the new president is seeking to appeal to racial justice groups, whose clout inside the environmental movement has skyrocketed in recent years as attention to the pollution that disproportionately affects people of color and low-income communities has risen. That's far different from the roster of national environmental groups, with their largely white leaders and lobbyists, who helped lead the charge for Obama's doomed cap-and-trade legislation.

Advocates for that "environmental justice" movement have already shown they have the power to influence the new administration, tanking the expected nomination of veteran California air and climate regulator Mary Nichols to head the Environmental Protection Agency over complaints that she had failed to address racial disparities.

Advocates for environmental justice say giving them a seat at the table is long overdue.

"We've never had too many cooks in the kitchen — we've never had a broad diversity of perspectives," said Peggy Shepard, executive director of WE ACT for Environmental Justice. "This is a good thing. This is how we get to improve life for everybody."

Biden's orders will press pause on auctions of federal lands and waters to oil and gas companies, expand conservation protections for large swaths of land, create a new civilian conservation corps and promise to deliver economic help to coal-producing regions suffering from the industry's decline.

But pressure from that broader coalition will be needed to persuade Congress to spend the $2 trillion Biden wants to help eliminate greenhouse gas emissions from the power sector by 2035 and across the economy by 2050.

Green groups were quick to welcome Biden's climate initiatives, which had been the subject of chatter among environmental activists for weeks. Many of those groups had spent the past four years locked in court challenges against Trump's own steady stream of executive orders.

"These actions stand in stark contrast to the denial of climate change and the attacks our oceans and coasts have faced over the past four years," said Diane Hoskins, campaign director at Oceana, a group advocating for protection of oceans, of Biden's plans to place an open-ended moratorium on the issuing new leases for oil and gas drilling in federal waters. "This stuff is a major step forward."

Wednesday's orders fill in many of the details left out of last week's orders that called for blocking the Keystone XL pipeline and rejoining the Paris climate agreement.

On the international front, Biden will convene a promised climate change summit with world leaders for April 22, Earth Day, and he's calling for a national intelligence estimate on the security implications of climate change. His State Department will also prepare the process for the country joining an international phase out of super-planet-heating hydrofluorocarbon chemicals as stipulated in the Montreal Protocol, and all agencies to develop strategies for integrating climate considerations into their international work.

White House Climate Envoy John Kerry said in a speech to the World Economic Forum Wednesday that the executive orders will include directing agencies to develop a plan for eliminating public finance of fossil fuel projects.

It creates a national climate task force for the 21 federal agencies and departments to coordinate actions addressing climate change. The work would include better protecting government facilities against the effects of climate change and making sure the public is kept up to date on climate-related forecasts and protection methods.

It also orders the creation a new organization, the Civilian Climate Corps Initiative, "to put a new generation of Americans to work conserving and restoring public lands and waters, increasing reforestation, increasing carbon sequestration in the agricultural sector, protecting biodiversity, improving access to recreation, and addressing the changing climate."

The new orders will address environmental justice issues, such as by establishing new commissions to address the concerns of so-called fenceline communities that are disproportionately people of color or low-income families that live near pollution sources. It will create a program to deliver 40 percent of the benefits of relevant federal investments to disadvantaged communities.

Biden is also directing agencies to weigh the climate change effects of all their decisions, a move that could affect procurement strategies for government vehicle fleets or electricity production.

It also seeks to strengths climate defenses in rural areas, directing the secretary of Agriculture to collect input from farmers, ranchers and others on how to use federal programs to encourage adoption of agricultural practices that reduce carbon emissions.

In another move, Biden will call for meeting his campaign promise to place 30 percent of U.S. land and waters under conservation protections by 2030. The so-called 30x30 plan was proposed by Rep. Deb Haaland, Biden's nominee to lead the Interior Department, and former New Mexico Sen. Tom Udall.

The order that has generated the sharpest opposition from oil companies is one that promises to rewrite the relationship between the industry and public lands. The Biden administration will order an open-ended freeze on offering public land for oil and gas drilling and coal mining, pending reviews of whether such leases were in the public interest. Under that review, the administration is expected to consider whether to add language to new government lease agreements to tighten standards on greenhouse gas emissions and increase the royalties that companies must pay for minerals they produce on public land.

Wednesday's move will not affect production currently underway or the oil and gas leases and permits that companies had stockpiled under Trump administration in expectation of new restrictions. That means oil and gas production on federal land, which contributes about one-fifth of overall U.S. production, will not stop immediately, with activity likely to continue for at least another year, energy analysts have said.

But that plan is drawing sharp pushback from lawmakers from big oil and coal producing states, such as Sen. Cynthia Lummis, whose state of Wyoming is the leading coal producer in the country.

"[It's] unbelievable that the Biden administration, to placate its radical minority and elites on both coasts, would pick on eight states that are producing energy," Lummis told reporters on a call. "This is ill-advised. I would strongly encourage the President to withdraw this ill-conceived executive order."

People in the oil and gas industry have said they fear the moratorium could end up becoming an outright ban, something Biden had promised on the campaign trail.

But conservation groups and even some industry analysts have argued that the fossil fuel industry is already sitting on leases for thousands of acres of federal land that companies haven't used yet, and they questioned why the government should offer even more.

The planned review will assess whether the leasing program delivers a fair return for taxpayers, which will include calculating the effects of climate change from fossil fuels produced on federal land. That will significantly reduce the benefits from energy extraction, but the Biden team's iterative process might also insulate the administration from legal challenges, said National Wildlife Federation CEO Collin O'Mara.

"It's clear that they're going to use sound science and the law to achieve the commitments that he made in the campaign, that are incredibly thoughtful and methodical," O'Mara said. "It's encouraging that they're doing it systematically."

Still, a pause on new activity could come back to take major bite out of some state budgets, especially those with an outsized dependence on oil production for revenue, such as New Mexico, which gets more than 10 percent of it revenue from the activity.

New Mexico Chamber of Commerce President and CEO Rob Black said the moratorium would simply lead companies to shift their operations to neighboring Texas, a state with little federal property and a state oil industry regulator who has called concerns about greenhouse gas emissions "misplaced."

"It won't further our shared goals on carbon emissions," Black said during a call with reporters. "It would just cause production to move a few miles down the road to private oil and gas leases [in Texas] or will incentivize it to go overseas to Saudi Arabia and Russia."

Anthony Adragna contributed to this report.

To view online:
https://subscriber.politicopro.com/energy/article/2021/01/biden-aims-for-climate-big-tent-to-avoid-obama-failures-2030884

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Arlington, VA 22209
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Message

From: Gillam, Laura Haynes (EPW) [Laura_Gillam@epw.senate.gov]
Sent: 1/29/2021 2:01:15 PM
To: Repko, Mary Frances (EPW) [MaryFrances_Repko@epw.senate.gov]
CC: Utech, Dan [Utech.Dan@epa.gov]; Adhar, Radha [Adhar.Radha@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Zimmerman, Melissa (Appropriations) [Melissa_Zimmerman@appro.senate.gov]
Subject: Re: EPW/EPA check in

Also Dan to answer your question about DERA - I remembered last night that DERA is not in the CAA (can't believe I forgot that point), so option two, as written, would not apply to DERA funds.

Sent from my iPhone

On Jan 28, 2021, at 9:11 PM, Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov> wrote:

Thanks for talking with us earlier today.

I am looping in Melissa Zimmerman from Appropriations. As we mentioned, we are concerned as authorizers in making sure we are funding the right programs (explicity named or more generally so), our Appropriations colleagues will be in charge of setting the topline number and how those funds are allocated (grants, contract, admin or other expenses). Looping her in for the purposes of your response and in the event we need to have a further conversation.

From: Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>
Sent: Thursday, January 28, 2021 1:06 PM
To: Utech, Dan <Utech.Dan@epa.gov>; Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov>; Adhar, Radha <Adhar.Radha@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Subject: RE: EPW/EPA check in

Hello everyone -

As part of the upcoming COVID package, we may have an opportunity to get some additional resources for the purposes of utilizing the CAA to address air pollutants that exacerbate or contribute to COVID disease or co-morbidity. We'd like to discuss which approach would be more preferable, and if the first option, is Section 111, 110 or 115 best? Thank you.

Request for EPA Technical Assistance.

Option 1 - For each of fiscal years 20[21] through 20[30], there is appropriated to the Administrator, out of any funds in the Treasury not otherwise appropriated, $100,000,000 to provide technical assistance to States and for Federal administrative expenses for carrying out section 111 of the Clean Air Act (42 U.S.C. 7411)] with respect to greenhouse gases, to remain available until September 30, 2030, of which not less than $90,000,000 shall be used to provide the technical assistance.

Option 2 - Other Expenses.—For each of fiscal years 20[21] through 20[30], there is appropriated to the Administrator, out of any funds in the Treasury not otherwise appropriated, $[XX] to provide for Federal administrative expenses to carry out sections of the Clean Air Act (42 U.S.C. 7401 et seq.) for which funding is not otherwise provided under this Act with respect to greenhouse gases and other air pollutants, to remain available until September 30, 20[30].

Laura Haynes Gillam
Senior Policy Advisor for Clean Air and Climate
U.S. Senate Environment and Public Works Committee, Democratic Staff
Laura_gillam@epw.senate.gov
Laura Haynes Gillam
Senior Policy Advisor for Clean Air and Climate
U.S. Senate Environment and Public Works Committee, Democratic Staff
Laura_gillam@epw.senate.gov

-----Original Message-----
From: Utech, Dan <Utech.Dan@epa.gov>
Sent: Thursday, January 28, 2021 12:58 PM
To: Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov>; Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>; Adhar, Radha <Adhar.Radha@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Subject: RE: EPW/EPA check in

yes

-----Original Message-----
From: Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov>
Sent: Thursday, January 28, 2021 12:47 PM
To: Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>; Adhar, Radha <Adhar.Radha@epa.gov>
Cc: Utech, Dan <Utech.Dan@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Subject: RE: EPW/EPA check in

Yes, I have moved my schedule around.

-----Original Message-----
From: Gillam, Laura Haynes (EPW) <Laura_Gillam@epw.senate.gov>
Sent: Thursday, January 28, 2021 12:34 PM
To: Adhar, Radha <Adhar.Radha@epa.gov>
Cc: Utech, Dan <Utech.Dan@epa.gov>; Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Subject: Re: EPW/EPA check in

MF is trying to move around her schedule to make it.

Sent from my iPhone

> On Jan 28, 2021, at 12:29 PM, Adhar, Radha <Adhar.Radha@epa.gov> wrote:

>
> Joe and Dan, can you please let me know if you can join this meeting? Laura and MFR need to touch base with us ASAP. MFR's calendar is unclear, but Laura can do this time and we need to get it scheduled as soon as possible.
> _____
> _____
> Microsoft Teams meeting
> Join on your computer or mobile app
> Click here to join the
> meeting<https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?
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> BqN2VHpmzUinK4AV9GscWPgLQ%3D&reserved=0>
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>

Message

From: Vincent, Marc [Vincent.Marc@epa.gov]
Sent: 3/15/2021 3:15:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Spenillo, Justin [Spenillo.Justin@epa.gov]; Shaw, Betsy [Shaw.Betsy@epa.gov]; Edwards, Jonathan [Edwards.Jonathan@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Hyde, Courtney [Hyde.Courtney@epa.gov]; Wolfe, Michael [Wolfe.Michael@epa.gov]; Lewis, Josh [Lewis.Josh@epa.gov]; Rowson, David [Rowson.David@epa.gov]; Veal, Lee [Veal.Lee@epa.gov]; Griggs, John [Griggs.John@epa.gov]; Cherepy, Andrea [Cherepy.Andrea@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]; Harvey, Reid [Harvey.Reid@epa.gov]; Lubetsky, Jonathan [Lubetsky.Jonathan@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Newberg, Cindy [Newberg.Cindy@epa.gov]; Snyder, Carolyn [Snyder.Carolyn@epa.gov]; Hopkins, Daniel [Hopkins.Daniel@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Kornylak, Vera S. [Kornylak.Vera@epa.gov]; Brachtl, Megan [Brachtl.Megan@epa.gov]; Costa, Shelley [Costa.Shelley@epa.gov]; Whitlow, Jeff [Whitlow.Jeff@epa.gov]; Saltman, Tamara [Saltman.Tamara@epa.gov]; Monroe, Scott [Monroe.Scott@epa.gov]; LaRue, Steven [LaRue.Steven@epa.gov]; Mathias, Scott [Mathias.Scott@epa.gov]; Bullard, Pamela [Bullard.Pamela@epa.gov]; Alpert, Adina [Alpert.Adina@epa.gov]; Santiago, Juan [Santiago.Juan@epa.gov]; White, Sharon [White.Sharon@epa.gov]; Diaz, Charlene [diaz.charlene@epa.gov]; Wilds, Edward [Wilds.Edward@epa.gov]; White, Rick [White.Rick@epa.gov]; Stafford, Andrea [Stafford.Andrea@epa.gov]; Fine, Steven [fine.steven@epa.gov]; Siegel, Kelly C. [Siegel.KellyC@epa.gov]; Shoaff, John [Shoaff.John@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Viswanathan, Krishna [Viswanathan.Krishna@epa.gov]; Watkins, Erica [Watkins.Erica@epa.gov]; Clark, Mike S. [Clark.Michael@epa.gov]; OAR Briefings [OAR_Briefings@epa.gov]; Suzuki, Debra [Suzuki.Debra@epa.gov]; Senter, Stephen [Senter.Stephen@epa.gov]; Millar, Emily [Millar.Emily@epa.gov]; Holden, Patricia [Holden.Patricia@epa.gov]; Marusiak, Eleanor [Marusiak.Eleanor@epa.gov]; Peacock, Grant [Peacock.Grant@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Henning, Julie [henning.julie@epa.gov]; Ward, Hillary [Ward.Hillary@epa.gov]
CC: DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Millett, John [Millett.John@epa.gov]
Subject: *REV* Meeting Materials for 3/16 OAR Business Review
Attachments: Feb 2021 Bowling Chart_.xlsx; MBR Supplemental_FY21_March.xlsx

Hi All,

Please see the updated bowling chart and MBR supplemental attached.

Marc Vincent
Office of Program Management Operations
Office of Air and Radiation
(202)564-0876

From: Vincent, Marc
Sent: Thursday, March 11, 2021 3:49 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Spenillo, Justin <Spenillo.Justin@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>; Edwards, Jonathan <Edwards.Jonathan@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Hyde, Courtney <Hyde.Courtney@epa.gov>; Wolfe, Michael <Wolfe.Michael@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Rowson, David <Rowson.David@epa.gov>; Veal, Lee <Veal.Lee@epa.gov>; Griggs, John <Griggs.John@epa.gov>; Cherepy, Andrea <Cherepy.Andrea@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Gunning, Paul <Gunning.Paul@epa.gov>; Newberg, Cindy <Newberg.Cindy@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>; Hopkins, Daniel <Hopkins.Daniel@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Brachtl, Megan <Brachtl.Megan@epa.gov>; Costa, Shelley <Costa.Shelley@epa.gov>;

Whitlow, Jeff <Whitlow.Jeff@epa.gov>; Saltman, Tamara <Saltman.Tamara@epa.gov>; Monroe, Scott <Monroe.Scott@epa.gov>; LaRue, Steven <LaRue.Steven@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>; Bullard, Pamela <Bullard.Pamela@epa.gov>; Alpert, Adina <Alpert.Adina@epa.gov>; Santiago, Juan <Santiago.Juan@epa.gov>; White, Sharon <White.Sharon@epa.gov>; Diaz, Charlene <diaz.charlene@epa.gov>; Wilds, Edward <Wilds.Edward@epa.gov>; White, Rick <White.Rick@epa.gov>; Stafford, Andrea <Stafford.Andrea@epa.gov>; Fine, Steven <fine.steven@epa.gov>; Siegel, Kelly C. <Siegel.KellyC@epa.gov>; Shoaff, John <Shoaff.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Viswanathan, Krishna <Viswanathan.Krishna@epa.gov>; Watkins, Erica <watkins.erica@epa.gov>; Clark, Mike S. <Clark.Michael@epa.gov>; OAR Briefings <OAR_Briefings@epa.gov>; Suzuki, Debra <Suzuki.Debra@epa.gov>; Senter, Stephen <Senter.Stephen@epa.gov>; Millar, Emily <Millar.Emily@epa.gov>; Holden, Patricia <Holden.Patricia@epa.gov>; Marusiak, Eleanor <Marusiak.Eleanor@epa.gov>; Peacock, Grant <Peacock.Grant@epa.gov>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Henning, Julie <henning.julie@epa.gov>; Ward, Hillary <Ward.Hillary@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: Meeting Materials for 3/16 OAR Business Review

Hi All,

Attached are the materials for the March 16, 3-4pm, OAR Business Review, which include the:

- Agenda;
- Bowling Chart;
- Countermeasures;
- MBR Supplemental (processes improved, employee ideas, celebrations); and
- Draft Measures Pyramid and Current Measure Status.

Please let us know if you have any questions.

Thank you,

Marc Vincent
Office of Program Management Operations
Office of Air and Radiation
(202)564-0876

-----Original Appointment-----
From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Tuesday, February 16, 2021 12:39 PM
To: Goffman, Joseph; Kim, Eun; Nunez, Alejandra; Carbonell, Tomas; Spenillo, Justin; Shaw, Betsy; Edwards, Jonathan; Tsirigotis, Peter; Dunham, Sarah; Grundler, Christopher; Hyde, Courtney; Wolfe, Michael; Lewis, Josh; Rowson, David; Veal, Lee; Griggs, John; Cherepy, Andrea; Hengst, Benjamin; Bunker, Byron; Burch, Julia; Harvey, Reid; Lubetsky, Jonathan; Gunning, Paul; Newberg, Cindy; Snyder, Carolyn; Hopkins, Daniel; Koerber, Mike; Kornylak, Vera S.; Brachtl, Megan; Costa, Shelley; Whitlow, Jeff; Saltman, Tamara; Monroe, Scott; LaRue, Steven; Mathias, Scott; Bullard, Pamela; Alpert, Adina; Santiago, Juan; White, Sharon; Diaz, Charlene; Wilds, Edward; White, Rick; Stafford, Andrea; Fine, Steven; Siegel, Kelly C.; Shoaff, John; Campbell, Ann; Viswanathan, Krishna; Watkins, Erica; Clark, Mike S.; OAR Briefings; Suzuki, Debra; Senter, Stephen; Millar, Emily; Vincent, Marc; Holden, Patricia; Marusiak, Eleanor; Peacock, Grant; Kabanda, Thierry; Rakosnik, Delaney; Henning, Julie; Ward, Hillary
Cc: Harlow, David; DeLuca, Isabel; Millett, John; Moor, Karl
Subject: OAR Business Review
When: Tuesday, March 16, 2021 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

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Phone Conference ID: Ex. 6 Personal Privacy (PP)
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Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 3/12/2021 2:10:06 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: RE: 2021-3-10 EPA Significant Milestones Annoucements Re Climate_OAR.docx

They were just examples. I think we can leave them or delete them. I figured our response would be folded into a larger Agency response and just left it.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Thursday, March 11, 2021 9:08 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: 2021-3-10 EPA Significant Milestones Annoucements Re Climate_OAR.docx

Who is Secretary Jones? Are we supposed to include the items in italics even though they don't look like EPA items, or should I delete them? Thanks.

Message

From: POLITICO Pro [alert@email.politicopro.com]
Sent: 1/27/2021 6:26:36 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: U.S. planning end to public financing of foreign fossil fuel projects

U.S. planning end to public financing of foreign fossil fuel projects

By Karl Mathiesen, Zack Colman

01/27/2021 01:16 PM EST

BRUSSELS — The new U.S. administration is developing a plan to cease taxpayer funding for foreign coal, oil and gas projects.

Amid a series of executive orders on climate change, President Joe Biden will also announce "a plan for ending international financing of fossil fuel projects with public money," presidential climate envoy John Kerry told a meeting of the World Economic Forum Wednesday.

By signaling an effort across fossil fuels broadly, Kerry's announcement could take the Biden administration beyond the Obama administration's policy to withhold finance for building overseas coal-fired power plants.

Several U.S. institutions, such as the Export-Import Bank and U.S. International Development Finance Corporation, leverage public dollars for global energy projects. The U.S. is also a sizable shareholder in multilateral development banks.

The comments came as Biden issued several executive orders on climate change that went beyond the steps he took on Jan. 20. After returning to the Paris agreement last week, there has been pressure on the new administration to demonstrate the measures it is willing to take to limit emissions at home and abroad.

This week, the 27 EU countries agreed on an immediate end to public finance for foreign coal projects and said they would "discourage" investments in oil and gas.

Kerry said the host of presidential orders would make "climate central to foreign policy planning and national security preparedness."

He singled out China for being a major financier of fossil fuels around the world, saying Beijing was "funding 70 percent of the coal fired power plants around the world in the Belt and Road initiative."

Kerry said: "The problem with gas is if we build out a huge infrastructure for gas now to continue to use it as the bridge fuel, when we haven't really exhausted the other possibilities, we're going to be stuck with stranded assets in 10, 20, 30 years."

Biden will also ratify the Kigali Amendment to the Montreal Protocol, Kerry said, which limits the use of hydrofluorocarbons — potent greenhouse chemicals.

The U.S. will also announce a plan to increase financial flows to developing countries to help them cope with climate change.

Kerry said in a White House press briefing that the finance plan and upping the U.S. emissions target "are essential to our being able to bring countries of the world together to raise ambition and meet this moment" as nations head into U.N. climate talks later this year in Glasgow, Scotland.

To view online:
https://subscriber.politicopro.com/canada/article/2021/01/us-planning-end-to-public-financing-of-foreign-fossil-fuel-projects-2031079

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POLITICO, LLC
1000 Wilson Blvd.
Arlington, VA 22209
USA

Message

From: Millett, John [Millett.John@epa.gov]
Sent: 1/29/2021 1:46:00 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: Fwd: NPR: General Motors Aims To Be Carbon Neutral By 2040

Fyi — NPR used the numbers, not the quote. Thanks for the quick review.

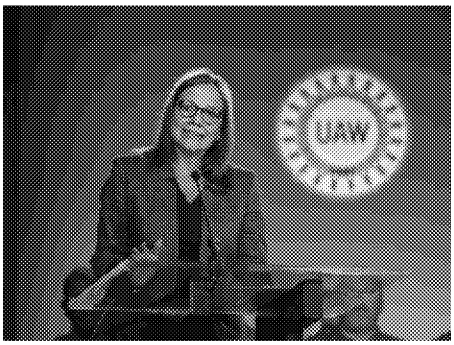
Begin forwarded message:

> **From:** "Jones, Enesta" <Jones.Enesta@epa.gov>
> **Date:** January 29, 2021 at 8:22:31 AM EST
> **To:** "Millett, John" <Millett.John@epa.gov>
> **Subject: NPR: General Motors Aims To Be Carbon Neutral By 2040**

Yes.
https://www.npr.org/2021/01/28/961777665/general-motors-aims-to-be-carbon-neutral-by-2040

General Motors Aims To Be Carbon Neutral By 2040

Dustin Jones



General Motors Chairman and CEO Mary Barra speaks in Detroit, Mich., 2019. GM has joined the Science Based Targets initiative to better reduce its carbon footprint.

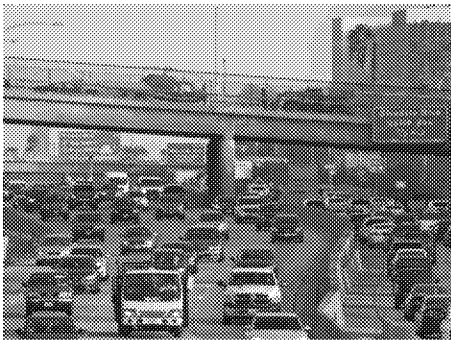
Bill Pugliano/Getty Images

Automaker General Motors has announced aspirations of achieving carbon neutrality by 2040. On the way to that goal, the company hopes to eliminate tailpipe emissions by 2035.

GM said Thursday it will take a science-based approach to become carbon neutral, balancing carbon dioxide emissions and removal efforts. Furthermore, it

plans to eliminate gas-powered, light-duty vehicle production by 2035, it said. It intends that by 2025, 40% of its vehicles will be battery powered.

"General Motors is joining governments and companies around the globe working to establish a safer, greener and better world," said Mary Barra, GM chairman and CEO. "We encourage others to follow suit and make a significant impact on our industry and on the economy as a whole."



A busy freeway outside of Los Angeles in December 2018. General Motors has committed to becoming carbon neutral by 2040. It also aims to have 40% of its vehicles be battery powered by 2025.

Damian Dovarganes/AP

Transportation is the largest contributor of greenhouse gas emissions in the United States, just over 28%, the Environmental Protection Agency reported. Which is why GM and other industry leaders have joined the Science Based Targets initiative, which calls on businesses to take action to combat climate change.

Sam Abuelsamid, principal research analyst at Guidehouse Insights, said initiative participants cannot make empty promises. Their results will be independently verified to hold them accountable. Carbon emissions in vehicles and factories are easily measured.

Article continues after sponsor message

"They're no longer saying that it's not really a problem," he said. "Companies across the spectrum are making changes because they know that in the long term if they don't make changes, if all of society doesn't make changes, it will have negative effects on their business."

A clear step for GM to become carbon neutral is to transition from internal combustion engines to electric vehicles. Traditional gas vehicles make up about 75% of GM's greenhouse emissions, the company said. Their production

facilities make up the other 25%, which the manufacturer aims to eliminate by using wind and solar energy. GM said it will power its U.S. sites with 100% renewable energy by 2030 and globally by 2035. It's a tall order, Abuelsamid admitted, but it's possible.

GM said it is working with EVgo vehicle charging stations to add "more than 2,700 new fast chargers by the end of 2025 ... powered by 100 percent renewable energy."

The bigger obstacle falls on the consumer. An electric vehicle is significantly more expensive. The Natural Resources Defense Council says the average electric car costs $19,000 more than a gasoline-powered car. But GM has spent years improving its battery technology, which may be why it is confident it can eliminate tailpipe emissions in the next 14 years.

'To do that and be successful they will have to make [electric cars] prices competitive," Abuelsamid said. "GM is confidant they can do that, they think they have the technology to do that. But we will have to see."

Message

From: Jones, Enesta [Jones.Enesta@epa.gov]
Sent: 1/27/2021 4:48:18 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition, 1/27/21

Daily News Clips: Morning Edition
January 27, 2021

Biofuels
Reuters: Sinclair confirms it secured Trump EPA's last biofuel waivers, defends them in court
https://www.reuters.com/article/idUSKBN29V2LM

Roll Call: Biofuel debate awaits Biden on way to court
https://www.rollcall.com/2021/01/27/biofuel-debate-awaits-biden-on-way-to-court/

Cars
WSJ: Volkswagen Asks Supreme Court to Block Local Emissions Regulations
https://www.wsj.com/articles/volkswagen-asks-supreme-court-to-block-local-emissions-regulations-11611694514?page=1

Chemicals
Bloomberg Law: Industry Braces for Tougher Toxic Chemical Rules Under Biden EPA
https://news.bloomberglaw.com/environment-and-energy/industry-braces-for-tougher-toxic-chemical-rules-under-biden-epa

Civil Rights
Grist: Why did a Chicago community of color get stuck with a scrapyard?
https://grist.org/justice/epa-investigation-southeast-side-chicago-scrapyard/

Climate Change/Environmental Justice
Washington Post: Biden to place environmental justice at the center of his climate plan
https://www.washingtonpost.com/climate-environment/2021/01/26/biden-environmental-justice-climate/

Climate Change
AP: Kerry aims to talk US back into a lead role in climate fight
https://apnews.com/article/climate-climate-change-john-kerry-barack-obama-3e71f433206b40c52a14e4900717a4c7?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEl5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D

NYT: How Biden's Climate Ambitions Could Shift America's Global Footprint
https://www.nytimes.com/2021/01/27/climate/climate-change-biden-kerry.html?searchResultPosition=1

NYT: The Battle Lines Are Forming in Biden's Climate Push
https://www.nytimes.com/2021/01/26/climate/biden-climate-change.html?searchResultPosition=1

Politico Pro: Biden's new climate orders to reshape U.S. energy policy
https://subscriber.politicopro.com/article/2021/01/bidens-new-climate-orders-to-reshape-us-energy-policy-2030884

USA Today: COVID-19, climate change: Denialism is deadly. Joe Biden knows this.

https://www.usatoday.com/story/opinion/todaysdebate/2021/01/26/covid-climate-change-denialism-deadly-joe-biden-knows-editorials-debates/4247663001/

USA Today: Climate change: Help Earth, but don't hurt America with regulations
https://www.usatoday.com/story/opinion/todaysdebate/2021/01/26/climate-change-government-centric-approach-higher-prices-editorials-debates/4268869001/

WSJ: Biden's Climate-Change Policy Targets Oil Industry
https://www.wsj.com/articles/biden-to-suspendnew-federal-oil-and-gas-leasing-11611672331?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEl5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D

Indian Country
The Hill: Biden seeks to bolster consultation with Indian Country
https://thehill.com/policy/energy-environment/535979-biden-seeks-to-bolster-consultation-with-indian-country?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEl5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D

Toxics
Courthouse News Service: Ninth Circuit Asked to Undo Asbestos Review by Trump EPA
https://www.courthousenews.com/ninth-circuit-asked-to-undo-asbestos-review-by-trump-epa/?amp=1

Water
Agri-Pulse: Biden administration targets Trump water decisions for review
https://www.agri-pulse.com/articles/15213-biden-administration-targets-trump-water-decisions-for-review

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Biofuels
Reuters
Sinclair confirms it secured Trump EPA's last biofuel waivers, defends them in court
https://www.reuters.com/article/idUSKBN29V2LM
By Stephanie Kelly

NEW YORK (Reuters) - Sinclair Oil Corporation confirmed on Tuesday it secured biofuel blending waivers for its refineries from the U.S. Environmental Protection Agency shortly before the departure of the administration of President Donald Trump last week.

The company made the statement in a court filing defending the waivers against a challenge from the biofuel industry, which wants to prevent the EPA from processing them. The company said the administration granted the waivers on Jan. 14.

Reuters had previously reported, citing sources, that privately-held Sinclair received at least two of three waivers handed out by the EPA in mid-January in the agency's last big move on biofuels policy before Trump left office.

In the filing Sinclair argued that it had the right to intervene in the court challenge, filed by the Renewable Fuels Association, because if the exemptions are blocked, it would be harmed financially.

The U.S. Court of Appeals for the D.C. Circuit ruled on Thursday that the EPA's action to grant the three waivers must be stayed.

The waivers are part of the U.S. Renewable Fuel Standard (RFS), which requires refiners to blend billions of gallons of biofuels into their fuel mix, or buy credits from those that do. Refiners can apply for an exemption if they average 75,000 barrels per day of throughput or less and can prove the blending requirements would do them financial harm.

The Trump administration vastly expanded the number of exemptions granted annually to refiners. Biofuel producers say the exemptions hurt demand for their products, while the oil industry rejects that claim and say exemptions are needed to keep small refiners afloat.

The EPA announced late on Jan. 19 that it granted two waivers for the 2019 compliance year but did not identify the recipients. It also granted one waiver for the 2018 compliance year.

Reuters reported the two 2019 waivers went to the 85,000 bpd Sinclair Wyoming refinery and the 30,000 bpd Sinclair Casper refinery, also in Wyoming. It remained unclear whether Sinclair also received the 2018 waiver.

Reporting by Stephanie Kelly; Editing by Marguerita Choy

Roll Call
Biofuel debate awaits Biden on way to court
https://www.rollcall.com/2021/01/27/biofuel-debate-awaits-biden-on-way-to-court/
By Joseph Morton

Biofuel backers celebrated a landmark legal victory around this time last year only to be unnerved by the Supreme Court's announcement earlier this month that it will review the decision.

At issue is a ruling by the 10th U.S. Circuit Court of Appeals that severely restricts which refiners are eligible for exemptions from the federal mandate known as the Renewable Fuel Standard.

Sen. Charles E. Grassley, R-Iowa, expressed shock the justices agreed to hear the case given their typical focus on areas where the lower courts are in conflict.

"It worries me that they are taking it up because the 10th circuit was such a defining moment in the whole fight between the (biofuels) industry and farmers on the one hand and EPA on the other hand," Grassley, a staunch ethanol supporter, told reporters.

Agreeing to hear the appeal could indicate the court sees flaws in that 10th circuit ruling.

When a final decision comes this summer, it will set the table for broader negotiations over the future of federal biofuel policy. And it could influence how President Joe Biden approaches the issue.

An early indicator of the administration's leanings should come during the confirmation process for Biden's pick to head the EPA, Michael Regan.

Fighting for gallons

The RFS requires billions of bio-based gallons to be blended annually into the nation's fuel supply. Ethanol and biodiesel plants view it as a critically important support system and complained bitterly about the Trump administration's generous granting of small refiner exemptions to the mandate. Ethanol producers say those exemptions destroyed demand for their product.

Renewable Fuels Association President and CEO Geoff Cooper described his industry as the ball in a game of ping pong.

"The last several years have really been incredibly uncertain and unstable in terms of the Renewable Fuel Standard because of these exemptions," Cooper said. "We've all been harmed by the granting of these waivers and it needs to stop."

Oil and gas interests, meanwhile, argue that ethanol has simply struggled from a combination of overcapacity and the pandemic, which crushed overall transportation fuel demand.

Refiners receiving exemptions say they were included in the law for good reason -- to help alleviate compliance costs that threaten the viability of their operations.

"We are already seeing a number of refineries either shuttering or shifting to renewable biodiesel," said Frank Maisano, spokesman for the Fueling American Jobs Coalition, a group of unions, small retailers and independent refiners.

The 10th circuit ruling would limit exemptions to those refiners who have continually received them over the years. If the Supreme Court affirms that interpretation, it would restrict eligibility to just a few operations.

"That should be the death knell for the abuse of the small refinery exemption program that we've seen over the past several years," Cooper said. "But that doesn't mean we should expect the refiners to stop looking for loopholes and other ways of avoiding compliance with the RFS."

A reversal of the 10th circuit decision, meanwhile, could pave the way for additional exemptions and put an even brighter spotlight on the administration's role.

On the campaign trail last year, Biden denounced the Trump administration's liberal exemption-granting ways and described the RFS as a bond with the nation's farmers.

That encouraged RFS supporters, who have pitched a big biofuels boost as one way the Biden administration can quickly reduce greenhouse gas emissions. Ethanol and ethanol-gasoline blends burn cleaner than pure gasoline, and a 2019 study released by the U.S. Department of Agriculture found that corn-based ethanol's greenhouse gas emissions profile was 39 percent to 43 percent lower than gasoline.

A national low carbon fuel standard similar to California's could benefit ethanol, depending on how emissions that result from its production are scored. Ethanol critics highlight the shift in land usage and environmental impacts that result from growing all that corn.

Refiners, meanwhile, point to the fragile economy and the need to protect good union jobs at refineries in key states such as Pennsylvania. They say they'd like to get beyond trench warfare over the RFS and the exemptions, but it's unclear where the two sides might find common ground.

Inheriting 'a mess'

In his final hours running the EPA under President Donald Trump, Andrew Wheeler issued several additional small refinery exemptions, but the D.C. Circuit Court of Appeals put those on hold. The incoming administration also will be responsible for issuing the required volumes for this year, which are overdue, and for handling proposed rules in areas such as ethanol warning labels on gas pumps.

"Michael Regan is inheriting quite a mess from Administrator Wheeler on the RFS," Cooper said. "It's going to take some work to clean that mess up."

The oil industry would like to see an overhaul of the entire system.

"The RFS is a fundamentally flawed and outdated program that continues to challenge the refining industry, the will of the marketplace and the American consumer's best interests," Ron Chittim, American Petroleum Institute vice president of downstream policy, said in a statement. "We look forward to working with Congress and the incoming administration to modernize our nation's outdated biofuel policies."

Maisano noted that when the RFS was established, big advancements were expected in biofuels from feedstocks other than corn, but those have not materialized as envisioned.

One factor that could drive change is that Congress scheduled specific year-by-year volumes for the RFS, but that schedule only runs through 2022.

Maisano predicted the end of the scheduled volumes will require a policy "reset" that will feature intense lobbying from all sides. He characterized the upcoming Supreme Court case as the opening act.

"The small refiner exemption question and the battle back and forth has been very heated, but it's really like the undercard of the heavyweight championship fight, which is the battle over the reset," Maisano said.

Cars
WSJ
Volkswagen Asks Supreme Court to Block Local Emissions Regulations
https://www.wsj.com/articles/volkswagen-asks-supreme-court-to-block-local-emissions-regulations-11611694514?page=1
By
Sara Randazzo

German auto giant Volkswagen AG is asking the U.S. Supreme Court to overturn a ruling that it says opens up car makers to a flood of emissions regulations from local governments that could clash with existing federal rules.

The request to the high court, filed last week and made public Tuesday, is the latest turn in litigation that has dogged Volkswagen since it admitted in 2015 to rigging 11 million diesel vehicles world-wide with software that allowed them to evade government emissions tests. The company has paid more than $30 billion in fines and settlements because of the scandal, including some $23 billion in the U.S.

At issue is a June decision by the Ninth U.S. Circuit Court of Appeals that ruled two counties have authority alongside the federal Environmental Protection Agency to regulate the updates that car manufacturers make to emissions systems in vehicles after they are sold. Florida's Hillsborough County and Salt Lake County in Utah are seeking daily penalties of $5,000 per rigged diesel car for the local pollution they caused, with potential yearly damages of $11.2 billion.

Volkswagen argues it shouldn't have to pay those fines because the court decision misinterprets the federal Clean Air Act, which it says gives sole regulatory authority over manufacturer changes to car emissions to the EPA and California. The company argues that the EPA approved a software update Volkswagen made to the cars before the diesel-emissions scandal broke, and that its move isn't akin to something a county could regulate, such as a local mechanic tampering with emissions.

To date, the company has entered into $23 billion worth of civil and criminal settlements with federal and state regulators and drivers of nearly 600,000 U.S. diesel vehicles. Those agreements didn't prevent some states and local governments from separately suing Volkswagen, lawsuits the company has won in Alabama, Tennessee and Minnesota.

Chemicals
Bloomberg Law
Industry Braces for Tougher Toxic Chemical Rules Under Biden EPA
https://news.bloomberglaw.com/environment-and-energy/industry-braces-for-tougher-toxic-chemical-rules-under-biden-epa
BY PAT RIZZUTO

- Orders, subpoenas, more lawsuits expected
- Chemicals office in solid position to ramp up efforts

The nation's toxic chemicals law will get a broader interpretation under President Joe Biden, triggering extra requirements for industry to protect more people, according to attorneys specializing in chemical laws.

The EPA will use its authority under the overhauled Toxic Substances Control Act, or TSCA, to make chemical manufacturers provide more information about toxicity, exposure, and other data, the attorneys said. A wide range of industries should prepare to turn over more information about chemical releases into the environment, the presence of those chemicals in consumer products, and worker exposure to industrial and commercial substances, the attorneys said.

Biden's administration will be the first to restrict chemicals based on the first batch of 10 risk evaluations since TSCA was amended, said Mike Walls, a vice president at the American Chemistry Council, which represents chemical manufacturers.

These rules will make "downstream users"—companies that buy chemicals to make goods—more aware of TSCA's potential impacts, said Erik C. Baptist, a partner in Wiley Rein LLP's Washington office. They'll wake up "to the degree TSCA affects their business and bottom line," he said.

If companies have data they're reluctant to turn over, as occurred during the Trump administration, they should prepare for subpoenas, said Steve Owens, a Squire Patton Boggs attorney who oversaw the EPA's chemical and pesticide offices from 2009 to 2011. "You don't want to do it all the time, but you do it when you need to," he said.

But the EPA's use of its new data-gathering authorities is largely "untested territory," Walls said. Some companies may challenge specific testing requirements, he said.

Outside Influences

Three federal courts' rulings buttress what Owens and other attorneys expect will be the Biden administration's more vigorous efforts to examine and regulate chemicals. All three courts found the Trump EPA's interpretation of the 2016 TSCA amendments required the agency to do more work.

- In April 2019, the U.S. Court of Appeals for the District of Columbia Circuit ruled the EPA failed to make chemical manufacturers provide all the information the law mandated when they ask the agency to keep a chemical's identify confidential.
- In November 2019, the U.S. Court of Appeals for the Ninth Circuit ruled the agency couldn't categorically exclude discontinued uses of chemicals from its risk evaluations.
- In December, the U.S. District Court for the Northern District of California told the agency it should have make greater effort to get asbestos-use data to analyze that mineral's risks.

Advocates are also more likely to have the new administration's ear, said Herbert Estreicher, a partner in Keller and Heckman LLP's Washington and Brussels offices.

Environmental, health, and labor groups will urge the EPA to examine more ways chemicals can affect people's health and additional ways they can damage the environment, and to estimate more comprehensively the total

exposure people and wildlife have to chemicals it's examining, said Eve Gartner, an attorney focused on toxics and health at Earthjustice, a nonprofit environmental law group.

Broader EPA chemical analyses are likely both for new chemicals—ones that haven't been made in or imported into the U.S.—and existing chemicals, which have long-standing industrial, commercial, and consumer uses, attorneys said.

'Less Time, Paper, and Effort'

TSCA requires the EPA to determine whether new chemicals' "intended, known, or reasonably foreseen" uses may put people's health or the environment at undue risk of injury. Biden's EPA likely will expand its views of those "reasonably foreseeable" uses, said Baptist, who served as deputy assistant administrator for law and policy in EPA's chemical safety and pollution prevention office during the Trump administration.

A broader view of such uses almost inevitably means consent orders or significant new use rules, called SNURs, will restrict new chemicals' production or imports, he said.

The EPA negotiates consent orders with a company seeking to make or import a new chemical, and imposes restrictions only on that company. SNURs impose the equivalent restrictions on any company that makes or imports the same chemical.

There's also a practical reason why the EPA's would prefer to restrict chemicals through consent orders, Baptist said.

"It takes less time, paper, and effort" to regulate a new chemical than to determine that it's "not likely to present an unreasonable risk," Baptist said. "Those not likely determinations are judicially reviewable," he said.

'Defies Common Sense'

The new administration will pick up ongoing risk evaluations of 23 existing chemicals and a group of four chemicals. Those chemicals have markets in the airplane, auto, construction, oil and gas, rubber, and other industries.

Baptist said the agency will face pressure to evaluate outdoor air emissions, water releases, and waste disposal of these chemicals. Those scenarios were largely excluded from the chemical risk evaluations the Trump administration carried out, he said.

Trump's EPA assumed TSCA filled regulatory gaps and applied to situations that weren't covered by statues governing air, water, and waste, he said. As a result, its risk evaluations omitted those broader exposures.

The agency's analyses were "pretending" that Clean Air Act-regulated chemicals are no longer inhaled, said Richard Denison, lead senior scientist with the Environmental Defense Fund. "That's just factually false" and "defies common sense, let alone the science of risk assessment," Denison said.

EPA's science advisers repeatedly highlighted these and other problems in the agency's risk evaluations. Heeding rejected scientific recommendations is among the ways the new administration could improve the agency's risk evaluations, he said.

Office Hiring

The chemicals office is better positioned to carry out a more aggressive approach than other parts of the EPA, which had staffing levelscut or vacancies left unfilled during the Trump administration.

The chemicals office has hired 16 scientists "in record time," and 50 more positions are in the process of being filled, said Alexandra Dapolito Dunn, the former assistant administrator for chemicals and pesticides who stepped down Jan. 19.

Having new staff in the pipeline will help, said Owens, the former EPA assistant administrator. But training new employees will take time.

"TSCA is not a simple statute to understand," he said. Still, "the career staff are incredibly talented people who know how to do tasks if told to do them," and can expand EPA's chemicals oversight at the same time, he said.

Balancing Priorities

The bigger challenge is balancing staff's time between meeting ongoing day-to-day statutory requirements, working towards approaching deadlines, and revisiting past decisions made during the Trump administration, he said.

The new administration could launch "supplemental" risk analyses of the chemicals the Trump administration already examined, Owens said. These extra analyses would examine risks omitted from the 10 chemical risk evaluations completed by early January, he said.

But "it would be very difficult to have a complete do-over of the first 10 TSCA risk evaluations," while also drafting proposed rules that would restrict all 10 chemicals, as the agency must do, he said.

Meanwhile, the EPA's conclusions in four of the 10 final risk evaluations have been challenged. And there's still time to challenge other final risk conclusions, so attorneys predict more litigation. "It's early days" for amended TSCA, the American Chemistry Council's Walls said.

Civil Rights

Grist: Why did a Chicago community of color get stuck with a scrapyard?

https://grist.org/justice/epa-investigation-southeast-side-chicago-scrapyard/
By Adam Mahoney

After a polluting scrapyard closed in a predominantly white and wealthy neighborhood on Chicago's North Side last year, the very same company got approval to open a new scrapyard on the city's predominantly low-income and Latino Southeast Side. Now, the state of Illinois' decision to approve the new venture is the target of a federal civil rights investigation by the Environmental Protection Agency, or EPA.

The EPA's investigation, which was launched on Monday, stems from complaints brought by two Chicago-based environmental justice groups, the Southeast Environmental Task Force, or SETF, and the Chicago Southeast Coalition to Ban Petcoke.

The complaint alleges that the state discriminated against the Latino and Black communities in southeast Chicago when it approved new permits allowing the scrapyard to move into the community without proper public participation and meetings. The complaint also says that the state-level Illinois EPA colluded with city agencies and developers to settle new polluting industries in corners of the city where heavy industries have already contaminated residential yards with oil byproducts, lead, and arsenic, among other pollutants. Since 2014, the Illinois EPA has conducted more than 75 special inspections of Southeast Side industries for failing to meet pollution standards. The neighborhood is also home to Chicago's latest federal Superfund site.

"With our complaint, we wanted [the Illinois EPA] to understand how we see the situation as residents and how we know the operation is going to negatively impact our community," said Peggy Salazar, a lifelong Southeast Side resident and director of SETF.

The new probe coincides with a separate investigation by the U.S. Department of Housing and Urban Development, or HUD, looking into the Chicago Mayor's office's handling of the permit process for the new shredder, which is owned by the Ohio-based Reserve Management Group. HUD is investigating an August complaint filed by Southeast Side residents that alleged the city intensified housing segregation by allowing polluting industries to cluster in their neighborhood.

Reserve Management Group's North Side shredder had a troubled history before it closed last year. In 2019, the operation agreed to install additional pollution controls after the U.S. EPA cited the site for excessive emissions and failing to obtain a correct operating permit. But even after that, the Chicago Department of Public Health cited the shredder on 11 separate days early last year, suggesting that its pollution-control equipment was failing to properly control emissions.

Many attribute the approved relocation of the shredder to a 2017 Chicago city council order that re-zoned industrial areas on the North Side for high-end commercial development, incentivizing industrial businesses to relocate to industrial corridors on the Southwest and Southeast Sides. At the time of its closure in mid-2020, the North Side shredder was surrounded on three sides by property rezoned for the Lincoln Yards upscale housing development.

The state's EPA approved the company's permit for a Southeast Side facility in June, arguing the agency "exerted considerable effort" in listening to and evaluating resident concerns around the proposal. When contacted by Grist, the Illinois EPA said the agency would work closely "with U.S. EPA and involved parties." The city of Chicago did not immediately respond to requests for comment.

Environmental advocates and residents on the Southeast Side argue that their neighborhood is being unfairly burdened.

"We refer to ourselves as a sacrifice zone," explained SETF's Salazar. "The revitalization of parts of Chicago are planned, and they frame the [South and West Sides] as the accommodating communities. To them, we're here to accommodate — not participate — in the revitalization."

SETF and the Chicago Southeast Coalition to Ban Petcoke are hoping that their complaint opens the door for more equity in the state's environmental policies.

"What we're fighting for is actual policies that will accommodate environmental justice communities," Salazar told Grist.

Climate Change/Environmental Justice
Washington Post
Biden to place environmental justice at the center of his climate plan
https://www.washingtonpost.com/climate-environment/2021/01/26/biden-environmental-justice-climate/
By Brady Dennis

President Biden on Wednesday plans to make tackling America's persistent racial and economic disparities a central part of his plan to combat climate change, prioritizing environmental justice for the first time in a generation.

As part of an unprecedented push to cut the nation's greenhouse gas emissions and create new jobs as the United States shifts toward cleaner energy, Biden will direct agencies across the federal government to invest in low-income and minority communities that have traditionally borne the brunt of pollution, according to two individuals briefed on the plan who spoke on the condition of anonymity because it had not been formally announced.

Biden will sign an executive order establishing a White House interagency council on environmental justice, create an office of health and climate equity at the Health and Human Services Department and form a separate environmental justice office at the Justice Department, the individuals said.

Cathleen Kelly, a fellow who focuses on energy and environment at the Center for American Progress, a liberal think tank, called the expected actions "a historic commitment."

"The executive order will help to lay out a clear path to implementing President Biden's climate and justice commitments," Kelly said. "It will get the gears turning in each agency across the federal government. With

Biden in the White House and the current leaders we have in Congress, this year represents an unprecedented opportunity to have executive and legislative action."

At the heart of Biden's executive action Wednesday is an effort to improve conditions in Black, Latino and Native American communities targeted for hazards that others did not want: power plants, landfills, trash incinerators, shipping ports, uranium mines and factories.

Communities where air quality is poor suffer from higher levels of asthma and respiratory and heart diseases. As a result, African Americans and Latinos, along with Native Americans, have suffered disproportionately from the coronavirus, a respiratory illness, and are more likely to die.

Robert Bullard, a professor at Texas Southern University and longtime environmental justice advocate, praised the notion of linking the environment and health by establishing a dedicated office at HHS. And he said creating an environmental justice office at the Justice Department underscores that the problem is both important and pervasive.

"When you have the most powerful legal department in the country saying that environmental justice is a basic right, I think that is a signal being sent across the country to say that this is real at the highest level," Bullard said.

The moves are part of a far-reaching, all-of-government effort to transition the United States away from fossil fuels — a goal that Biden has consistently listed as a top priority and one that will undoubtedly include powerful allies and fierce resistance alike.

Biden on Wednesday plans to impose a moratorium on all new federal oil and gas leasing, pledge to protect 30 percent of the nation's public lands and waters by the end of the decade and direct federal agencies to factor climate change into a wide range of issues, including procurement, regulations and legal settlements.

"Our urgent reduction of emissions is compelled by public conscience and by common sense," Biden's climate envoy, former secretary of state John F. Kerry, said during remarks this week at a U.N. gathering focused on climate adaptation.

Kerry said that the United States would meet the pledge it made as part of the Paris climate accord, and that it will "treat the crisis as the emergency that it is."

"President Biden knows that we have to mobilize in unprecedented ways to meet a challenge that is fast accelerating, and he knows we have limited time to get it under control."

Kerry also alluded to the new administration's plan to pull every lever at its disposal within the federal government, saying, "Every agency is now a part of our climate team."

The White House will also establish an interagency working group to help communities transition away from coal and other fossil fuels, the individuals said, headed by Climate Coordinator Gina McCarthy and National Economic Council Director Brian Deese.

Speaking to the National Conference of U.S. Mayors this past weekend, McCarthy assured local officials from across the country that the administration would work to convince average Americans they will benefit from a transition to clean energy.

"People have been in pain long enough. We are not going to ask for sacrifice," she said. "And if we fail to win the heart of middle America, we will lose."

Biden's latest actions come less than a week after Inauguration Day, when some of his first acts in office included signing an order for the United States to rejoin the international Paris climate accord and halting the controversial multibillion-dollar Keystone XL pipeline.

The president also has ordered federal agencies to review scores of climate and environmental policies enacted during the Trump years and, if possible, to quickly reverse them. He also plans to convene a meeting of world leaders this spring to focus on ramping up global action on climate change.

The push to scale back the nation's carbon emissions, while also addressing the historical burden of pollution on minority communities, is coming not only from the White House, but also from the Democratic-led Congress.

"It is central," Senate Majority Leader Charles E. Schumer (N.Y.) said in an interview with MSNBC on Monday, saying he agrees with Biden that pursuing a bold environmental agenda will also be good for the economy. "One of the things that's always pained me is that so many working people think climate [action] will leave them out, when it actually will increase the number of good-paying jobs, as long as we make sure it's American jobs."

He added, "Climate is central, but jobs and dealing with racial inequities are part of it."

The measures that Biden plans to roll out Wednesday and in the months ahead will also face stiff opposition in some quarters and a lingering skepticism in areas of the country he has pledged to help.

In 1994, President Bill Clinton issued an executive order directing agencies to identify and address the "disproportionately high and adverse" health and environmental impacts of their policies on poor and minority populations. But it has been applied intermittently over the past quarter-century.

The oil and gas industry already has begun to assail key Biden policy changes, including his decisions on the Keystone XL pipeline.

"The first few days are giving us an indication of what the next four years could look like, and that's elicited some real concern, within the industry and broadly, outside the industry," said Frank Macchiarola, senior vice

president of policy, economics and regulatory affairs at the American Petroleum Institute. "We're going to communicate how impactful such a policy would be, to both the administration and on Capitol Hill."

The top three House Republicans, joined by 17 others, sent a letter to Biden on Tuesday warning him against suspending federal oil and gas auctions. Taking such a step "would be as extreme as it is radical, and it would only further divide the country. It would put Americans with good-paying jobs in the energy industry out of work. And, it would seem to conflict directly with federal law."

In an interview Tuesday, Sen. Dan Sullivan (R-Alaska) said Biden's decision to curtail oil and gas jobs would disproportionately harm Alaska Natives, who have relied on energy development to lift their communities out of poverty. He noted that when the American Medical Association surveyed life expectancy in communities across the nation, residents on Alaska's North Slope and the Aleutian Islands made the biggest gains.

"These were some of the poorest places in America, almost exclusively Native. And when they got resource development, they got things most Americans take for granted: health clinics, gymnasiums and flush toilets," Sullivan said. "Now we have an administration that directly targets these opportunities and turns racial equity on its head.

American Clean Power Association CEO Heather Zichal, who served as a top climate adviser to President Barack Obama, said in an interview that no one should be surprised by Biden's decision to follow through on his campaign promises. After all, she noted, the policy proposals are posted on his webpage.

"If we're going to remove 51 billion tons of greenhouse gas emissions annually and get to zero [emissions] in 30 years, this is going to require drastic action," she said, adding that her members are prepared to invest $1 trillion in the coming years on clean energy projects. "We see nothing but opportunity."

Some communities that have traditionally relied on fossil fuel jobs have found themselves wondering what opportunities will come their way under a Biden administration and whether workers in fading industries such as coal will be left behind.

In Adams County, Ohio, where two coal-fired power plants closed in 2019, the more than 500 jobs they once provided are gone. While two solar farms exist nearby, they and other businesses have not filled the employment void — and the massive hole in the local tax base.

"We're all for renewables and stuff like that, but at the end of the day, people have to make a living," Adams County Commissioner Ty Pell said in an interview, noting that solar farms, once built, require far fewer ongoing employees than a massive power plant.

Pell noted that beyond the residents who have struggled to find other jobs, the disappearance of the local taxes the plants provided has meant a budget squeeze on schools, emergency responders and other services. "That," he said, "is the unseen loss that people don't understand."

Across the country, in Gillette, Wyo., which bills itself as the "Energy Capital of the Nation," Mayor Louise Carter-King said residents have realized for some time that the shift from fossil fuels is an inevitable one, driven as much by market forces as anyone who might occupy the White House.

"I think we've found out it doesn't really matter who is in the Oval Office," she said in an interview, noting that while the Trump administration lightened regulations on coal and oil and gas companies, the energy industry that has helped this city thrive for decades still suffered job losses. "It's just a free market, and that's just all there is to it."

Carter-King pointed to a nearby testing center that studies carbon capture and sequestration technologies, as well as existing energy infrastructure and a workforce of electricians, welders and mechanics that could put its skills to use in a variety of ways.

"We've been working hard to try to transition," she said. "We know what's coming down the pike, and we are preparing as best we can."

While Wyoming remains one of the reddest states in the country — Trump won more than 70 percent of the vote in November — Carter-King said she welcomes Biden's promises to help create new, solid jobs in places where the nation's shift to cleaner forms of energy could mean lost jobs in the fossil fuel sector.

"We do want to work with the new administration on what we can do here. … Working together, we can get so much further than [having] some sort of standoff," she said. "President Biden has promised to help communities like ours, so I'd like to hold him to that."

Climate Change
AP
Kerry aims to talk US back into a lead role in climate fight
https://apnews.com/article/climate-climate-change-john-kerry-barack-obama-3e71f433206b40c52a14e4900717a4c7?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEI5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D
By Ellen Knickmeyer

From a wood-paneled library in his Boston mansion, new climate envoy John Kerry is talking the U.S. back into a leading role in global climate action, making clear the nation isn't just revving up its own efforts to reduce oil, gas and coal pollution but that it intends to push everyone in the world to do more, too.

Kerry's diplomatic efforts match the fast pace of domestic climate directives by the week-old Biden administration, which created the job Kerry now holds. Those directives include a Biden order expected Wednesday spelling out how U.S. intelligence, defense and homeland security agencies should address the security threats posed by worsening droughts, floods and other natural disasters under global warming.

At 77, Kerry is working to make a success out of the global climate accord that he helped negotiate in Paris as President Barack Obama's secretary of state — and that he then saw rejected by President Donald Trump, who

also spurned all other Obama-era legacy efforts to wean the U.S. and global economies off climate-damaging fossil fuels.

Success for Kerry is hardly assured. At home, he faces pushback from the oil and gas industry and hears concerns that jobs will be lost. Internationally, there's uncertainty about whether Biden's climate commitments can survive the United States' intensely divided politics, let alone the next presidential transition.

Meanwhile, environmentalists are pushing him to be aggressive — even demonstrating outside his house on his first full day on the job.

Underscoring the urgency, Kerry -- working from his home on Boston's patrician Beacon Hill during the COVID-19 pandemic -- sat before a computer screen and started talking before sunup last Thursday, his first full day in his new job, to a global business forum in Europe.

Since then, he has spoken virtually with U.S. mayors, foreign presidents and premiers, government ministers and others, until the light from the setting sun slides down the gilt spines of the shelves of leather-bound books in his library.

Kerry exhorts: Put your big one-off COVID-19 economic recovery funding into projects that boost cleaner energy. Get green projects going fast in Republican-leaning U.S. states to prove renewable energy can mean jobs and build needed political support. Get everyone to talk to China about things like stopping the building of dirty-burning coal-fired power plants.

If China and the U.S., as the world's No. 1 and 2 top carbon emitters, don't spell out exactly how they will curb climate-damaging emissions more quickly, "we're all going to lose credibility," Kerry told an online gathering of American mayors last weekend.

The U.S. has to have the "credibility to go to the table, show people what we're doing and push them to do more," Kerry said then. "So everybody can can understand it's not fake, it's not a phony, empty promise — it really is getting real."

Kerry is a full-time principal member for climate on the White House's National Security Council. The role acknowledges what climate and military experts say will be growing conflicts around the world as climate change increases competition for natural resources. It takes into account a lack of U.S. readiness to protect military installations and overall infrastructure from worsening flooding and other natural disasters as temperatures rise.

By giving someone of Kerry's stature a job with equally high prominence, Biden aims to "bring the climate issue into the conversation" on national security matters routinely, said John Podesta, a climate counselor for Obama and a White House chief of staff for President Bill Clinton.

Kerry is expected to have desks at both the White House and the State Department.

In the meantime, the home library where Kerry now holds most of his big online meetings earned him a 10 out of 10 from the popular "Room Rater" Twitter account that judges the backdrop décor in people's Zoom calls and TV appearances. That's despite expressing doubt about whether it was a room or a set.

Kerry and other Biden administration climate leaders will be working to set a tougher goal for the U.S. for cutting emissions, as well as making good on pledges to increase climate funding for poorer countries.

On Thursday, the progressive Sunrise Movement's Boston branch had demonstrators outside his Boston house holding signs saying "Kerry be brave." The move shows the left keeping up pressure for what could be a politically tricky level of aggressiveness on cutting fossil fuels.

"Our role is ... now to hold them accountable," Sunrise Movement spokesperson Ellen Sciales said Tuesday, and keep them "pushing us forward to meet the scale and the urgency of the climate crisis."

On the right, some Republican lawmakers and the politically influential oil and gas industry have been subdued in the first week of the Biden administration, saying they hope to work with Kerry and others on climate efforts.

Kerry told the mayors he talked with Democratic Sen. Joe Manchin of West Virginia at Biden's Jan. 20 inauguration. Kerry said he and Manchin, who has fought climate regulation he sees threatening his coal state's economy, agreed: Winning the U.S. fight on climate change will depend on getting renewable-energy jobs into places like West Virginia and Tennessee as soon as possible.

Then, "boom, you will begin to have believers," Kerry declared from his library. "They're not going to believe it when we just say it. We have to do it."

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This story has been corrected to show that Thursday's talk was with a global business forum in Italy, not government ministers.

Bloomberg
Who's Helping Joe Biden Fight Climate Change?
https://www.bloomberg.com/news/features/2021-01-27/who-s-helping-joe-biden-fight-climate-change-a-bloomberg-green-guide
By Elizabeth Elkin

Past presidents—even progressive ones—have viewed climate change as a problem for the future. President Barack Obama, for example, "took the view that climate change was a moral issue," said Jeff Burnam, an adjunct professor at American University who previously served as a senior legislative staffer in the U.S. House and Senate. "At the time, that was the idea—what are we going to do about our children?"

Especially following a year when wildfires caused record levels of destruction along one U.S. coast while hurricanes pummeled another, President Joe Biden doesn't have that luxury. Already he's assembled an unprecedented team of White House climate advisers and installed climate experts in roles that haven't typically been thought to require environmental expertise, a sign that environmental policy will be central to his administration's agenda.

Here's a brief guide to who's on Biden's team and what they're doing there:

John Kerry

Special Presidential Envoy for Climate

Photographer: Ken Cedeno/UPI/Bloomberg

In 2015, as Secretary of State under Obama, Kerry helped secure passage of the Paris climate agreement. In his new role under Biden, Kerry will be back in the Cabinet—plus, he'll have a seat on the National Security Council, a first for the group dedicated to advising the president on the nation's biggest threats. As climate envoy, Kerry will be the global face of the U.S.'s climate agenda, charged with making sure the world sees the U.S. as a leader on climate again.

Gina McCarthy
National Climate Adviser

Photographer: Joshua Roberts/Getty Images

As head of the Environmental Protection Agency, McCarthy signed the Obama administration's Clean Power Plan, which set the first national limits on carbon pollution from power plants but was blocked from going into effect by the Supreme Court and later became a bogeyman of the Trump administration. She'll play the U.S. counterpart to Kerry's international efforts.

See also:
Ali Zaidi, Deputy National Climate Adviser
Jahi Wise, Senior Adviser for Climate Policy and Finance
Sonia Aggarwal, Senior Adviser for Climate Policy and Innovation
Maggie Thomas, Chief of Staff for the Office of Domestic Climate Policy
David Hayes, Special Assistant to the President for Climate Policy

Janet Yellen
Treasury Secretary

Photographer: Alex Wong/Getty Images

During her confirmation hearing before the Senate Finance Committee, Yellen called climate change an "existential threat" to the U.S. economy, which stands to take a 10.5% hit by 2100 if emissions keep increasing. She told senators she'd create a special hub within the department dedicated climate-related financial risk and appoint someone at a "very senior level" to lead it.

Explore dynamic updates of the earth's key data points

Open the Data Dash

Million metric tons of greenhouse emissions, most recent annual data

Renewable power investment worldwide in Q2 2020

Parts per million CO_2 in the atmosphere

-5.56%

Today's arctic ice area vs. historic average

Soccer pitches of forest lost this hour, most recent data

Bishkek, KyrgyzstanMost polluted air today, in sensor range

+0.78° C

Dec. 2020 increase in global temperature vs. 1900s average

22%

Carbon-free net power in the U.K., most recent data

See also:
Didem Nisanci, Treasury Department Chief of Staff (Before joining the administration, Nisanci was the global head of public policy for Bloomberg LP, the parent company of Bloomberg News.)

Jennifer Granholm
Secretary of Energy

Photographer: Alex Edelman/AFP/Getty Images

Granholm's climate track record is already long. In 2007, as governor of Michigan, she created the Michigan Climate Action Council, which was tasked with developing a set of recommendations for the state to reduce its greenhouse gas emissions gird its economy against the effects of warming. Two years later, she worked with the Obama administration to coordinate the auto industry bailout, which included a plan to cut greenhouse gases by steadily raising fuel efficiency standards to a target of 54.5 miles per gallon for new vehicles by 2025.

See also:

Tarak Shah, Department of Energy Chief of Staff
Jennifer Wilcox, Principal Deputy Assistant Secretary for Fossil Energy
Shalanda Baker, Deputy Director for Energy Justice
Jennifer Jean Kropke, Director of Energy Jobs
Robert Cowin, Deputy Assistant Secretary for Public Engagement in the Department of Energy

Deb Haaland
Secretary of the Interior

Photographer: Joshua Roberts/Getty Images

Barely off her freshman term in the House as a representative from New Mexico, Haaland will become the first Native American Cabinet secretary if she's confirmed. As the top official for the country's public lands, Haaland would oversee a key focus of the administration's climate policy. Biden is expected to expand on a previous order suspending new oil and gas leasing and drilling permits for public lands and waters, directing his agencies to determine whether that could be made a permanent ban.

Pete Buttigieg
Secretary of Transportation

Photographer: Ken Cedeno/UPI/Bloomberg

While running for the Democratic nomination in 2020, Buttigieg said he'd restore Obama-era vehicle emissions standards; now, assuming the Senate approves his nomination as Transportation Secretary, he'll have the power to do just that. The Department of Transportation governs many facets of U.S. infrastructure, including public transit and road construction, putting him at the forefront of climate resilience efforts, as well.

Michael Regan
Environmental Protection Agency Administrator

Photographer: Joshua Roberts/Getty Images

As head of the North Carolina Department of Environmental Quality, Regan facilitated a multi-billion-dollar coal ash cleanup, ordered chemical companies to prevent so-called "forever chemicals" from contaminating the Cape Fear River, and established an environmental justice advisory board, all in a state that voted for Trump in 2020 by a margin of more than 100,000 votes. That determination and willpower will help him in his next job—if confirmed, he'll be responsible for reenergizing the agency, which struggled with attrition and ideological clashes under Trump.

See also:
Dan Utech, Environmental Protection Agency Chief of Staff

Deanne Criswell
Federal Emergency Management Agency Administrator

Photographer: Lev Radin/Pacific Press/Sipa USA/Newscom

Criswell led New York City's response to the coronavirus pandemic as its commissioner of emergency management. As of mid-December, FEMA had responded to 125 official declarations of emergency in 2020, up from 15 in 2019. Criswell must be confirmed by the Senate before starting work.

Brian Deese

Director of the National Economic Council

Photographer: Alex Wong/Getty Images

Deese served in a number of roles in the Obama administration, including as a climate adviser and as deputy director of the NEC. After Obama left the White House, Deese became the global head of sustainable investing at BlackRock, an association that rankles some environmentalists; despite Chairman Larry Fink's pledge to put sustainability at the center of the firm's investment strategy, it remains the world's largest backer of fossil fuel projects. Deese will be in charge of the jobs part of Biden's climate and jobs agenda.

Brenda Mallory

Chair of the White House Council on Environmental Quality

Photographer: Joshua Roberts/Getty Images

Mallory was most recently the director of regulatory policy for the Southern Environmental Law Center, an advocacy group aimed at protecting the environment and citizens of the south. Before that, she was acting general counsel at the EPA and helped lead the Climate 21 Project, a policy memo put together by more than 150 people with government experience giving recommendations to the Biden administration on tackling the climate crisis.

See also:

Cecilia Martinez, Senior Director for Environmental Justice at the White House Council on Environmental Quality

Rich Glick

Chairman of the U.S. Federal Energy Regulatory Commission

Photographer: Andrew Harrer/Bloomberg

Glick has already served on the FERC board; before that, he was vice president for government affairs for Spanish utility giant Iberdrola's U.S. renewables business and director of government affairs at U.S. power giant PacifiCorp. As leader of FERC, once confirmed, he'd be responsible for approving natural gas infrastructure and overseeing electricity markets, making him a key player in Biden's effort to achieve a clean electrical grid by 2035.

Eric Lander

Science Adviser and Director of the White House Office of Science and Technology Policy

Photographer: Alex Wong/Getty Images

Lander is best known for co-leading the Human Genome Project, the international research initiative that succeeded in building the first map of human DNA in 2003, and was co-chair of the President's Council of Advisors on Science and Technology during the Obama years. The OSTP has in the past been primarily focused on nuclear technology, so the nomination of a life scientist to lead the office (he still has to be confirmed) is yet another demonstration of the Biden's administration's deliberate shift toward climate and related issues.

Jeff Marootian

Special Assistant to the President for Climate and Science Agency Personnel

Photographer: Shannon Finney/Getty Images

As Washington, D.C.'s one-time top transportation official, Marootian helped broker a joint agreement between Connecticut, Massachusetts, Rhode Island, and the District of Columbia signed in 2020 to reduce pollution related to transportation over the next decade and invest in clean transportation. He also worked as the White House liaison for the Department of Transportation under the Obama administration.

Frances Arnold and Maria Zuber
Co-chairs of the President's Council of Advisors on Science and Technology

Maria Zuber (left) and Frances Arnold

Photographer: Angela Weiss/AFP; Alex Wong/Getty Images

Arnold is a professor of chemical engineering, bioengineering, and biochemistry at the California Institute of Technology, and won the Nobel Prize in Chemistry in 2018 for her work using direct evolution to design new enzymes. Zuber coordinated efforts to combat climate change at the Massachusetts Institute of Technology, where she was also vice president for research. Neither has previous experience in politics, although Zuber once led a NASA mission to examine the moon's gravitational field.

NYT
How Biden's Climate Ambitions Could Shift America's Global Footprint
https://www.nytimes.com/2021/01/27/climate/climate-change-biden-kerry.html?searchResultPosition=1
By Somini Sengupta

John Kerry, the new American envoy for climate change, has spent the last few days repeatedly telling world leaders that the United States is ready to help the world "raise ambition" to address global warming. Doing so, however, could mean big changes for America's role in the world.

Foreign policy experts say that the Biden administration's efforts must extend far beyond rejoining the Paris Agreement, the global pact by nearly 200 governments aimed at slowing climate change. Taking on climate change will require a reassessment of everything from United States priorities in the Arctic to helping fragile countries deal with the fallout of climate risks.

"It changes defense posture, it changes foreign policy posture," said John D. Podesta, a former Obama administration official. "It begins to drive a lot of decision making in foreign policy, diplomacy and development policy."

The first acknowledgment of that shift is expected on Wednesday, with the White House directing intelligence agencies to produce a National Intelligence Estimate on climate security, and telling the secretary of defense to do a climate risk analysis of the Pentagon's facilities and installations.

"Addressing climate change can, and will be, a central pillar of the Biden administration's foreign policy," said Meghan O'Sullivan, who served as a deputy national security adviser under President George W. Bush and now leads the Geopolitics of Energy Project at the Harvard Kennedy School. "It means infusing the issue of climate and environment into our trade policies, our foreign aid programs, our bilateral discussions and even our military readiness."

Mr. Kerry, a principal member of President Biden's National Security Council, is in charge of navigating that shift. Here are four big things to watch in the coming weeks and months.

Can the United States address its own climate problem?

On his first day in office, Mr. Biden began the process of rejoining the Paris Agreement. Now comes the hard part: The United States, which is responsible for the single largest chunk of greenhouse gases that have warmed the planet since the industrial age, needs to set specific targets to reduce its own emissions by 2030 — and to put in place domestic policies to achieve them.

Greenpeace has urged a 70 percent reduction in emissions from 2010 levels, while the World Resources Institute and other American advocates have pushed for around 50 percent.

That puts Mr. Kerry in a tricky position. More ambitious targets would give him more leverage over other countries ahead of the next global climate talks, set for November in Glasgow. But setting targets for domestic emissions reductions will not be so simple politically, especially with a split Senate.

In a speech to American mayors on Saturday, Mr. Kerry signaled that the administration would seek to balance the ambitious with the realistic. "We have to go to Glasgow with reality, and we have to go to Glasgow with strength," he said.

How will the United States deal with China?

Climate may be one of the few areas of cooperation in an increasingly tense relationship between Washington and Beijing. The two countries are the world's largest emitters and the world's largest economies, and without ambitious steps from both, there is no way the world can slow down warming.

Mr. Podesta said the Biden administration would need to create "a protected lane in which the other issues don't shut down the conversation on climate change."

China is also ahead in some ways. Its president, Xi Jinping, said last September that Beijing was aiming to be carbon neutral by 2060, which means it plans to either capture its carbon emissions or offset them by buying credits for green projects like tree-planting programs.

Mr. Kerry has described China's 2060 target as "not good enough."

Not for nothing have Mr. Kerry's first overtures as climate envoy been to European leaders. His best chance of putting pressure on Beijing is to do it alongside the world's other big economy: the European Union.

What leverage does the United States have?

Mr. Kerry has repeatedly said he intends to "raise ambition" by all countries. The United States has at its disposal a few diplomatic sticks and carrots.

Mr. Kerry could use a bilateral United States-Mexico trade agreement, for instance, to persuade Mexico to open up to American investment in clean energy projects. He could encourage private U.S. investment to encourage India to move away from coal and accelerate renewables.

And he could channel United States development aid to help countries pivot to a green economy — not something Washington is known for, as Kelly Sims Gallagher, a former Obama administration official, pointed out.

"For the United States to be seen as a country that's helping vulnerable countries to become resilient and enabling low carbon development, actually fostering low carbon development, would earn us a lot of good will," said Dr. Gallagher, now a professor at the Fletcher School at Tufts University. "It would be a major turnaround."

Climate advocates have called on the Biden administration to ensure that development aid is channeled to help vulnerable countries adapt to climate change and to work with allies in Europe to encourage developing countries to build clean energy projects instead of polluting coal plants.

Few details have emerged from the White House about how to use American money to advance climate goals abroad. Mr. Kerry has said only that the United States, having reneged on a $2 billion pledge to the United Nations-backed Green Climate Fund, would "make good" on its financial commitment to help vulnerable countries deal with climate risks.

How will U.S. alliances with oil-producing countries change?

The elephant in the room in a climate-focused White House is what to do about American relations with Saudi Arabia.

The geopolitics of energy had already been changing. The United States had steadily become less dependent on oil from the Middle East, thanks to the shale boom at home. A climate-focused White House stands to accelerate the change.

"We do have an opportunity to rethink and reset our relationships in the Middle East because of that," Dr. Gallagher said. "Climate change is an additional factor."

No sooner had Mr. Biden been elected than Saudi Arabia's crown prince unveiled plans for a car-free city.

NYT
The Battle Lines Are Forming in Biden's Climate Push
https://www.nytimes.com/2021/01/26/climate/biden-climate-change.html?searchResultPosition=1
By Coral Davenport and Lisa Friedman

WASHINGTON — As President Biden prepares on Wednesday to open an ambitious effort to confront climate change, powerful and surprising forces are arrayed at his back.

Automakers are coming to accept that much higher fuel economy standards are their future; large oil and gas companies have said some curbs on greenhouse pollution lifted by former President Donald J. Trump should be

reimposed; shareholders are demanding corporations acknowledge and prepare for a warmer, more volatile future, and a youth movement is driving the Democratic Party to go big to confront the issue.

But what may well stand in the president's way is political intransigence from senators from fossil-fuel states in both parties. An evenly divided Senate has given enormous power to any single senator, and one in particular, Joe Manchin III of West Virginia, who will lead the Senate Energy Committee and who came to the Senate as a defender of his state's coal industry.

Without a doubt, signals from the planet itself are lending urgency to the cause. Last year was the hottest year on record, capping the hottest decade on record. Already, scientists say the irreversible effects of climate change have started to sweep across the globe, from record wildfires in California and Australia to rising sea levels, widespread droughts and stronger storms.

"President Biden has called climate change the No. 1 issue facing humanity," Gov. Jay Inslee of Washington said. "He understands all too well that meeting this test requires nothing less than a full-scale mobilization of American government, business, and society."

Mr. Biden has already staffed his government with more people concerned with climate change than any other president before him. On his first day in office, he rejoined the Paris Agreement on climate change.

But during the campaign, he tried to walk a delicate line on fracking for natural gas, saying he would stop it on public lands but not on private property, where most of it takes place.

A suite of executive actions planned for Wednesday does include a halt to new oil and gas leases on federal lands and in federal waters, a move that is certain to rile industry. But that would not stop fossil fuel drilling. As of 2019, more than 26 million acres of United States land were already leased to oil and gas companies, and last year the Trump administration, in a rush to exploit natural resources hidden beneath publicly owned lands and waters, leased tens of thousands more.

If the administration honors those contracts, millions of publicly owned acres could be opened to fossil fuel extraction in the coming decade.

The administration needs to do "much, much more," said Randi Spivak, who leads the public lands program at the Center for Biological Diversity.

Also on Wednesday Mr. Biden is expected to elevate climate change as a national security issue, directing intelligence agencies to produce a National Intelligence Estimate on climate security, and telling the secretary of defense to do a climate risk analysis of the Pentagon's facilities and installations.

He will create a civilian "climate corps" to mobilize people to work in conservation; create a task force to assemble a governmentwide action plan for reducing greenhouse gas emissions; and create several new

commissions and positions within the government focused on environmental justice and environmentally friendly job creation.

The real action will come when Mr. Biden moves forward with plans to reinstate and strengthen Obama-era regulations, repealed by the Trump administration, on the three largest sources of planet-warming greenhouse emissions: vehicles, power plants and methane leaks from oil and gas drilling wells.

It may take up to two years to put the new rules in place, and even then, without new legislation from Congress, a future administration could once again simply undo them.

Legislation with broad scope will be extremely difficult. Many of the same obstacles that blocked President Barack Obama a decade ago remain. The Senate Republican leader, Mitch McConnell, will very likely oppose policies that could hurt the coal industry in his state, Kentucky.

So will Senator Manchin, who campaigned for his seat with a television advertisement that featured him using a hunting rifle to shoot a climate change bill that Mr. Obama had hoped to pass. In the decade since, he has proudly broken with his party on policies to curb the use of coal.

"I have repeatedly stressed the need for innovation, not elimination," Senator Manchin said in a statement. "I stand ready to work with the administration on advancing technologies and climate solutions to reduce emissions while still maintaining our energy independence."

Senator Manchin also opposes ending the Senate filibuster. But, to change Senate rules, Democratic leaders would need every Democratic vote. Without Senator Manchin, Mr. Biden would need significant Republican support.

"There is wide scope for the executive branch to reinstate what Obama did and go beyond," said Michael Oppenheimer, a professor of geosciences and international affairs at Princeton University.

But, he added, "if you want something that will stick, you have to go through Congress."

To Mr. Biden's advantage, some corporations have turned to friend from foe.

Mr. Biden's team is already drafting new national auto pollution standards — based on a deal reached between the state of California and Ford, Honda, BMW, Volkswagen and Volvo — that would require passenger vehicles to average 51 miles per gallon of gasoline by 2026. The current Trump rules only require fuel economy of about 40 miles per gallon in the same time frame.

And just two weeks after Mr. Biden's electoral victory, General Motorssignaled that it, too, was ready to work with the new administration.

"President-elect Biden recently said, 'I believe that we can own the 21st century car market again by moving to electric vehicles.' We at General Motors couldn't agree more," wrote Mary Barra, the chief executive of GM, in a letter to leaders of some of the nation's largest environmental groups.

If enacted, a fuel economy rule modeled on the California system could immediately become the nation's single-largest policy for cutting greenhouse gases.

Mr. Biden's team is also drafting plans to reinstate Obama-era rules on methane, a planet-warming gas over 50 times more potent than carbon dioxide, though it dissipates faster. Last summer, when Mr. Trump rolled back those rules, the oil giants BP and Exxon called instead to tighten them.

The new president has also found broad support for rejoining the Paris Agreement, a global accord under which the United States pledged to cut greenhouse emissions about 28 percent below 2005 levels by 2025.

Rejoining the accord means honoring commitments. Not only must the United States meet its current target (right now it's about halfway to that goal) but it will soon also be expected to set new and more ambitious pledges for eliminating emissions by 2030.

ExxonMobil, Shell, BP, and Chevron all issued statements of support for Mr. Biden's decision to rejoin. So did the United States Chamber of Commerce and the American Petroleum Institute, which once supported a debunked study claiming the Paris Agreement would lead to millions of job losses.

"As policy is being developed by the administration, by members of Congress, we want to have a seat at the table," said Neil Bradley, executive vice president and chief policy officer at the chamber of commerce.

Other energy industry executives said action by Congress on climate change was long overdue, with many pressing for some kind of tax on oil, gas and carbon emissions to make climate-warming pollution less economical.

"Having a clear price signal that says 'Hey, it's more cost efficient for you to buy an electric car than another big truck' is exactly what we want happening, not somebody in government deciding that they're going to outlaw something," said Thad Hill, the chief executive of Calpine, a power generating company based in Texas that also supports the Paris Agreement goals.

The Democrats' razor-thin majority is no guarantee of action. In the Senate, Democrats are 10 votes short of the 60 needed to break a filibuster that would almost certainly come with legislation that would replace coal and oil with power sources such as wind, solar and nuclear energy, which do not warm the planet.

In a Monday night interview on MSNBC, Senator Chuck Schumer of New York, the majority leader, acknowledged how difficult a strong legislative response will be.

Instead, he called on Mr. Biden to declare climate change a "national emergency."

"Then he can do many, many things under the emergency powers of the president that wouldn't have to go through — that he could do without legislation," Senator Schumer said. "Now, Trump used this emergency for a stupid wall, which wasn't an emergency. But if there ever was an emergency, climate is one."

Senator John Barrasso, Republican of Wyoming, the nation's largest coal-producing state, fired back, "Schumer wants the president to go it alone and produce more punishing regulations, raise energy costs, and kill even more American jobs."

Senator Thomas Carper of Delaware, chairman of the Environment Committee and one of Mr. Biden's oldest friends, said he would do what he could to insert climate-friendly policies into larger pieces of legislation. Democrats hope a pandemic recovery bill will include hundreds of billions of dollars for environmentally focused infrastructure, such as Mr. Biden's plans to build 500,000 electric-vehicle charging stations and 1.5 million energy efficient homes and housing units.

Senator Carper also said he hoped to revive modest legislation that has in the past received bipartisan support, such as extending tax breaks for renewable power sources, supporting the construction of new nuclear power facilities, and improving energy efficiency in buildings.

"You may call it incrementalism," Mr. Carper said. "But I call it progress."

Christopher Flavelle contributed reporting.

Politico Pro
Biden's new climate orders to reshape U.S. energy policy
https://subscriber.politicopro.com/article/2021/01/bidens-new-climate-orders-to-reshape-us-energy-policy-2030884
BY ZACK COLMAN, BEN LEFEBVRE

President Joe Biden will issue a slate of executive orders on Wednesdaydesigned to make climate change a national security priority for years to come, reshaping the U.S. oil and gas industry and delivering victories for environmental advocates on a central pillar of his new administration.

In a sharp contrast to the Trump administration's focus on increasing fossil fuel production, Biden's orders will press pause on auctions of federal lands and waters to oil and gascompanies, expand conservation protections for large swathes of federal land, create a new civilian conservation corps and promise to deliver economic help to coal-producing regions suffering from the industry's decline.

Biden will still need Congress to accomplish his target of spending $2 trillion on climate change to help reach the goal of eliminating greenhouse gas emissions from the power sector by 2035 and across the economy by 2050. But the orders to be issued Wednesday show Biden taking aggressive steps to launch a government-wide effort toward tackling climate change.

Green groups were quick to welcome Biden's climate initiatives, which had been the subject of chatter among environmental activists for weeks. Many of those groups had spent the past four years locked in court challenges against Trump's own steady stream of executive orders.

"These actions stand in stark contrast to the denial of climate change and the attacks our oceans and coasts have faced over the past four years," Diane Hoskins, campaign director at Oceana, a group advocating for protection of oceans, said of Biden's plans to place an open-ended moratorium on the issuing new leases for oil and gas drilling in federal waters. "This stuff is a major step forward."

Wednesday's orders are part of an early slew of actions to fulfill Biden'scampaign pledges to address climate change as one of the top four crises confronting the U.S., alongside the coronavirus pandemic, economic stagnation and racial inequality. Last week, on his first day in office, Biden signed an executive order calling for reconsidering methane emission rules from new oil and gas sources, reversing Trump rules that rolled back vehicles' tailpipe carbon dioxide limits, and canceling a permit for the Keystone XL pipeline, the subject of pitched political battles for a decade.

Wednesday's orders fill in many of the details left out of last week's orders, including setting the date that Biden will convene a promised climate change summit with world leaders for April 22, Earth Day.

The new orders will also address "environmental justice" issues, such as by establishing new commissions to address the concerns of so-called fenceline communities that are disproportionately people of color or low-income families that live near pollution sources. Biden is also directing agencies to weigh the climate change effects of all their decisions, a move that could affect procurement strategies for government vehicle fleets or electricity production.

In another move, Biden will call for meeting his campaign promise to place 30 percent of U.S. federal land and waters under conservation protections by 2030. The so-called 30x30 plan was proposed by Rep. Deb Haaland, Biden's nominee to lead the Interior Department, and former New Mexico Sen. Tom Udall.

The order that has generated the sharpest opposition from oil companies is one that promises to re-write the relationship between the industry and public lands. The Biden administration will order an open-ended freeze on offering public land for oil and gas drilling and coal mining, pending reviews of whether such leases were in the public interest. Under that review, the administration is expected to consider whether to add language to new government lease agreements to tighten standards on greenhouse gas emissions and increase the royalties that companies must pay for minerals they produce on public land.

"The federal government has a fiduciary responsibility to manage public resources as strategic financial assets," said Autumn Hanna, vice president of Taxpayers for Common Sense, a nonpartisan group focused on government finances. "The Biden administration must now conduct a thorough review of the rules and regulations guiding federal resource production and implement the reforms necessary to protect the taxpayer interest."

Wednesday's move will not affect production currently underway or the oil and gas leases and permits that companies had stockpiled under Trump administration in expectation of new restrictions. That means oil and

gas production on federal land, which contributes about one-fifth of overall U.S. production, will not stop immediately, with activity likely to continue for at least another year, energy analysts have said.

People in the oil and gas industry have said they fear the moratorium could end up becoming an outright ban, something Biden had promised on the campaign trail.

But conservation groups and even some industry analysts have argued that the fossil fuel industry is already sitting on leases for thousands of acres of federal land that companies haven't used yet, and they questioned why the government should offer even more.

The planned review will assess whether the leasing program delivers a fair return for taxpayers, which will include calculating the effects of climate change from fossil fuels produced on federal land. That will significantly reduce the benefits from energy extraction, but the Biden team's iterative process might also insulate the administration from legal challenges, said National Wildlife Federation CEO Collin O'Mara.

"It's clear that they're going to use sound science and the law to achieve the commitments that he made in the campaign, that are incredibly thoughtful and methodical," O'Mara said. "It's encouraging that they're doing it systematically."

Still, a pause on new activity could come back to take major bite out of some state budgets, especially those with an out-sized dependence on oil production for revenue, such as New Mexico, which gets more than 10 percent of it revenue from the activity.

New Mexico Chamber of Commerce President and Chief Executive Rob Black said the moratorium would simply lead companies to shift their operations to neighboring Texas, a state with little federal property and a state oil industry regulator who has called concerns about greenhouse gas emissions "misplaced."

"It won't further our shared goals on carbon emissions," Black said during a call with reporters. "It would just cause production to move a few miles down the road to private oil and gas leases [in Texas] or will incentivize it to go overseas to Saudi Arabia and Russia."

USA Today
COVID-19, climate change: Denialism is deadly. Joe Biden knows this.
https://www.usatoday.com/story/opinion/todaysdebate/2021/01/26/covid-climate-change-denialism-deadly-joe-biden-knows-editorials-debates/4247663001/
By The Editorial Board

Our View: Like coronavirus, climate crisis won't magically disappear. Biden's expected moratorium on new oil and gas leasing would be a good start in a fact-based, science-based approach.

If there were any lingering doubts about the undermining of scienceas the COVID-19 crisis erupted last year, Dr. Anthony Fauci has horror stories to prove otherwise. In a series of recent interviews, most notably with The

New York Times, the nation's leading infectious disease expert revealed how his informed advice for grappling with a growing pandemic was all but dismissed by a White House flirting with denialism.

"We would say things like, 'This is an outbreak. Infectious diseases run their own course unless one does something to intervene,' " Fauci recalled. "(President Donald Trump) would get up and start talking about, 'It's going to go away, it's magical, it's going to disappear.' "

A year and more than 424,000 dead Americans later, grim lessons have been learned about the costs of downplaying research-based measures such as mask wearing, social distancing and testing. (Science is also riding to the rescue in the form of safe and effective vaccines.)

Hottest years in hottest decade

The same kind of fact-based, science-based approach is also needed to tackle climate change, the other crisis threatening humanity.

Levels of heat-trapping carbon dioxide in the atmosphere, produced in large part by the burnings of fossil fuels, are higher than the Earth has seen in at least 800,000 years. Last year tied 2016 as the hottest years on record within the hottest decade ever recorded.

Mega-blazes across America last year incinerated towns and forests made tinder dry by prolonged drought. Warming ocean waters helped transform storms like Hurricane Sally into slow-moving, water-deluging behemoths.

New research this month reveals that freshwater frozen on Antarctica is melting into the oceans at a rate six times faster than 40 years ago, a clear sign of a warming planet and a harbinger of a precipitous sea rise in the decades to come.

Although climate change is already a here-and-now problem, scientists say it's still possible to slow the rise in global temperatures and mitigate the most catastrophic effects. This will require reducing greenhouse gas emissions and even extracting gases from the skies, if science can find a way to do it at scale.

New oil, gas leasing moratorium

President Joe Biden was elected on a platform that included prioritizing the fight against climate change. Among his first actions were rejoining the Paris climate accord and rolling back Trump-era deregulation. On Wednesday, he's expected to announce a moratorium on new oil and gas leasing on federal land.

In the weeks ahead, Biden will seek hundreds of billions of dollars in clean-energy investments, including projects such as installing vast numbers of electric vehicle charging stations.

We continue to believe that a crucial step should be a refundable national carbon tax (about which Biden is silent) to make renewable sources and carbon-capture schemes more competitive with fossil fuels. And, in our view, Biden's quick canceling of the Keystone XL pipeline is a largely symbolic move unlikely to keep oil from being extracted from Canadian oil sands.

Nonetheless, with Biden's election, the nation and Congress can begin the crucial and necessary debate over how best to attack this crisis.

Denying that the crisis even exists — as Trump did with the coronavirus, and many still do with human-caused climate change — kills debate and ensures nothing is accomplished until it's too late to avert calamity.

USA Today

Climate change: Help Earth, but don't hurt America with regulations

https://www.usatoday.com/story/opinion/todaysdebate/2021/01/26/climate-change-government-centric-approach-higher-prices-editorials-debates/4268869001/

By Nicolas Loris

Opposing View: President's expected moratorium on new oil and natural gas leases and drilling permits isn't the way. We don't need more restrictions.

Climate change is real, and man-made emissions are indeed having an impact. However, many of the subsidies and regulations being proposed are costly and ineffective, benefiting the well-connected rather than the planet.

Take President Joe Biden's expected moratorium on new oil and natural gas leases and drilling permits on federal lands. Western and Gulf Coast states, which rely on energy development for their economic life, would suffer. The decision would result in less supply, fewer jobs and less revenue coming into these states — money used to fund everything from public schools to conservation efforts.

Worse, all the economic costs of the moratorium would buy a change in the Earth's temperature that's practically unnoticeable. A climate model developed at the National Center for Atmospheric Research shows that eliminating all fossil fuel production on federal lands would avert 0.08 degrees Celsius of warming by 2100.

Further, policies that restrict or prohibit natural resource extraction in the United States will not stop or substantially change the global consumption of these resources. Instead, production will shift to places where the standards are not as rigorous, increasing emissions in the process.

This administration's recent energy actions represent a broader concern with a government-centric approach. They will result in higher prices and are fraught with unintended consequences.

In fact, even if the United States were to achieve a net-zero emissions target at the sacrifice of higher energy bills and a weaker economy, the climate benefit would be minimal, as America constitutes a relatively small percentage of global emissions.

The Paris Agreement does little to change this, as major emitting developing countries have free reign to emit well into the future without meaningfully changing their behavior.

A more effective way for the government to lead is to get out of the way. Reforms should focus on breaking down barriers to innovation, providing timelier permitting for new, cleaner energy projects and reducing trade barriers that stunt the adoption of more efficient technologies. We need economic freedom, not more restrictions.

Nicolas Loris is the deputy director of The Heritage Foundation's Roe Institute for Economic Policy Studies.

WSJ
Biden's Climate-Change Policy Targets Oil Industry
https://www.wsj.com/articles/biden-to-suspendnew-federal-oil-and-gas-leasing-11611672331?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEl5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D
By Timothy Puko, Ken Thomas and Andrew Restuccia

WASHINGTON—The oil industry is emerging as a primary target of President Biden's climate policy, setting the stage for a confrontation that could shape the future of the energy sector.

The president is expected to issue an executive order Wednesday that would suspend new oil and gas leasing on federal land, people familiar with the matter say, in what is widely seen as a first step toward fulfilling Mr. Biden's campaign pledge to stop drilling on federal lands and offshore.

Drilling on federal lands accounts for roughly 9% of U.S. onshore production, but oil industry leaders see a curtailment on future development as a significant threat. Oil companies want to maximize their access to land and federal permits to help grow and sustain operations, and they plan to resist Mr. Biden's efforts through lawsuits and lobbying Congress.

"The early actions of the administration are unilaterally shutting down and restricting the ability of American oil and gas producers to run their operations," said Anne Bradbury, chief executive of the American Exploration and Production Council, which represents independent U.S. oil companies. "The scope and the lack of consultation with industry stakeholders has been alarming."

In addition to a possible ban on new leases, Mr. Biden issued orders on his first day in office last week for a wide-ranging review of policies that former President Donald Trump had intended to ease restrictions on oil and other industry.

Mr. Biden revoked the permit for the Keystone XL pipeline from Canada and moved to stop oil companies from drilling in Alaska's Arctic National Wildlife Refuge. No drilling has yet begun there, but the Trump administration had auctioned leases in the refuge earlier this month.

As a candidate, Mr. Biden had said climate change is one of the biggest crises the country faces, and that he would push the country to "transition away from the oil industry." Through gasoline burned by cars and trucks,

oil in recent years has become the country's top source of the greenhouse-gas emissions that warm the planet, according to Environmental Protection Agency data.

Many of his actions have been expected, but the administration's speed and willingness to target the industry have surprised its leaders and analysts. Share prices of U.S. oil companies tumbled in the week since these moves, stinging the industry at a time when it already faces existential questions from low prices and growing competition from cleaner sources of energy.

Mr. Biden has been under pressure from environmentalists to take aggressive action, citing the oil industry's role in contributing to climate change. They are cheering Mr. Biden's steps as a long-overdue shift to cleaner forms of energy.

"The temporary halt on new oil and gas leases is critical," said Natalie Mebane, associate director of policy at 350.org, an advocacy group that wants to limit oil production. She called the orders an "important step to protecting our communities, lands, and waters, halting corporate pollution and giveaways to fossil fuel CEOs."

Industry leaders say that is unfairly punitive and risky. Keystone XL's developers laid off 1,000 workers immediately upon Mr. Biden's move last week, and tens of thousands more could follow if oil companies can't keep drilling on federal territory. Industry leaders also say the moves endanger progress on emissions, which have fallen dramatically in the U.S. in recent years in part from a drilling boom that allowed power producers to burn more gas instead of coal.

Mr. Biden has promised to help laid off workers through promoting cleaner sources of energy. His climate plan includes $2 trillion in spending—grants, loans and tax incentives that would need to be approved by Congress—to help wind- and solar-power developers, battery makers and the electric-vehicle businesses that Mr. Biden says can employ more people in the future.

In addition to the moratorium on oil and gas leasing, Mr. Biden on Wednesday is expected to set a goal of protecting 30% of federal land and water by 2030, the people said. The president is also planning to re-establish a White House council of science advisers created during the Obama administration. Mr. Biden's plans were earlier reported by Bloomberg News and others.

Administration officials have discussed holding a climate-change summit, possibly on Earth Day, April 22, one of the people said, but officials haven't yet finalized those plans. Mr. Biden pledged during his campaign to convene a summit of leaders from around the globe to discuss climate change early in his administration.

The president has named climate change one of the four crises he hopes to tackle during his administration, along with the pandemic, the economy and racial inequality. The president tapped former Secretary of State John Kerry and former Obama Environmental Protection Agency Administrator Gina McCarthy to focus on international and domestic climate-change matters, respectively. Mr. Kerry is the president's special envoy for climate change and Ms. McCarthy is leading a newly formed White House Office of Domestic Climate Policy.

The expected executive order Wednesday to freeze new oil and gas leasing builds on actions Mr. Biden took during his first day in office. He put a moratorium on oil and gas leasing in Alaska's Arctic National Wildlife Refuge, reversing Congressional action taken in 2017 to begin leasing in the area.

The Interior Department subsequently issued an order suspending all onshore and offshore fossil fuel-related authorizations for 60 days unless they are approved by the department's senior leadership.

How much the Biden administration can limit access to offshore oil and gas, and drilling on federal lands, may ultimately be decided by the courts, according to the analysis firm ClearView Energy Partners LLC.

There are potentially conflicting laws that in some cases require the federal government to make federal territory available for drillers and miners, but in others may be interpreted as giving the president broad authority to limit what territory is available, Clearview says.

The consulting firm Rystad Energy says a de facto ban on new leasing is now reality, but that the oil industry has also insulated itself from immediate impact.

Oil companies used the final months of the Trump administration to stock up on permits. Federal permitting in New Mexico—a hotbed of Permian Basin drilling on federal land—more than tripled from 2017 to 2020; offshore permitting rose sharply starting in August, and by December had doubled from February, the firm said.

That will delay the biggest impacts for five years or more, the firm said. As current leases expire and exploration slows, annually the U.S. will lose upwards of 300,000 barrels of day in expected production, but peaking after 2031, according to Rystad's estimates.

Indian Country
The Hill
Biden seeks to bolster consultation with Indian Country
https://thehill.com/policy/energy-environment/535979-biden-seeks-to-bolster-consultation-with-indian-country?mkt_tok=eyJpIjoiWVRjNU1XUTVZMkZtWVdRNCIsInQiOiJjVnVXY1p6VjhiVzlvdFp1d3NSeGlDako2S3MxSVozYkNyQjFCZEl5NXJRRmgrR1ZkTk82bWFKVjFRTEEyVFp4M3FNam01VTlzVFZXUitcL29aRzlFWWZrYzN2UzAwRnpBcFBGTXE5cDdXQ0c3dnc5a1B6aDljUEdvdHZLWHRoczgifQ%3D%3D
By Rebecca Beitsch

President Biden on Tuesday signed a memo directing agencies to chart out how they plan to incorporate Native American needs into their decisionmaking, an early move to signal a sharp reversal from the Trump administration.

The order directs each government agency to turn over plans for how they can better consult with the nation's 574 federally recognized tribes.

"It is a priority of my administration to make respect for Tribal sovereignty and self-governance, commitment to fulfilling federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy," Biden wrote in the memo.

"History demonstrates that we best serve Native American people when Tribal governments are empowered to lead their communities, and when federal officials speak with and listen to Tribal leaders in formulating federal policy that affects Tribal Nations," he added.

The order isn't a large departure from current federal policy requiring consultation with tribes, but tribal leaders have complained for decades that they've been sidelined or silenced by federal agencies.

Those complaints likewise surfaced during the Trump administration, with tribes levying charges that they were ignored in numerous public lands decisions as the agencies sought to reduce the scope of national monuments on lands considered sacred by tribes, including the Bears Ears and Grand Staircase Escalante monuments.

Tribes in Alaska and New Mexico also raised flags when the Department of the Interior staged virtual hearings with Native Americans at the height of the pandemic when weighing efforts to expand drilling. Though designed as a safety precaution, studies have found Native Americans living on reservations to be the least connected to high-speed internet.

"To do this one week in office really speaks to his commitment to Indian Country," Nikki Pitre, executive director of the Center for Native American Youth and a member of the Coeur d'Alene Tribe, told The Hill. "Indian Country really just wants to be engaged and be consulted and having the executive order means we have it in writing now.@

If confirmed, Biden's nominee Rep. Deb Haaland (D-N.M.), will be the first Native American Interior secretary and Cabinet official. The department oversees the Bureau of Indian Affairs and other agencies with responsibilities to tribes.

But Biden's order will require consideration of tribal interests across all agencies, something Pitre hopes will help improve housing policy, education and more.

It could also help spur better health care planning, as some tribes have been hit particularly hard by the coronavirus

Toxics
Courthouse News Service
Ninth Circuit Asked to Undo Asbestos Review by Trump EPA
https://www.courthousenews.com/ninth-circuit-asked-to-undo-asbestos-review-by-trump-epa/?amp=1
By NICHOLAS IOVINO

SAN FRANCISCO (CN) — On the heels of recent court victories over how toxic chemicals must be evaluated, advocacy groups asked the Ninth Circuit on Tuesday to invalidate a recent Trump administration risk assessment for asbestos that critics say is legally flawed.

Joined by a coalition of public health and environmental advocates, Asbestos Disease Awareness Organization is asking the San Francisco-based appeals court to review the U.S. Environmental Protection Agency's final risk evaluation for asbestos.

The risk assessment published in December 2020 found one form of asbestos — chrysotile asbestos — poses unreasonable risks to human health but no serious risks to the environment.

Opponents say the EPA failed to examine risks associated with other forms of asbestos, consider past uses of the chemical, address all asbestos-related health conditions or use the best available data to draw its conclusions.

Recognized as a human carcinogen since the 1970s, asbestos exposure has been linked to cancers of the lungs, ovaries and larynx. The EPA banned asbestos in 1989, but the Fifth Circuit Court of Appeals overturned the ban two years later.

In November 2019, the Ninth Circuit ruled the EPA cannot ignore "legacy uses," meaning past uses, and disposals of chemicals when evaluating their impact on public health under the Toxic Substances Control Act.

Acknowledging that decision, the EPA said it plans to consider legacy uses of asbestos in a Part 2 risk evaluation, but it has provided no details on how the study will be conducted or when it will be completed.

Asbestos Disease Awareness Organization and its allies also filed a letter on Tuesday notifying the EPA of its intent to file a separate lawsuitagainst the agency for not addressing legacy uses of asbestos in its initial risk evaluation.

In December, U.S. District Judge Edward Chen ordered the EPA to start requiring companies to report information on how much asbestos is made, imported and put into U.S. products. The judge found the EPA's reliance on voluntary submissions and scientific modeling to close data gaps was insufficient, the same conclusion reached by the EPA's Science Advisory Committee on Chemicals.

Critics say the dearth of available data makes the agency's December 2020 risk evaluation flawed and unreliable.

"We want to see a comprehensive and robust evaluation of asbestos that looks at all the risks, all the products and types of asbestos which are out there that people are exposed to and looks thoroughly at the science," said Robert Sussman, a lawyer representing the petitioners, in a phone interview Tuesday.

Sussman objected to "numerous omissions" in the EPA's recent risk evaluation, including the failure to examine all asbestos fibers and look at products tainted with asbestos impurities, such as talc-based products.

In previous litigation, Sussman's clients argued the EPA overlooked "serious, well-documented concerns," including the discovery of asbestos in Playskool crayons in 2018 and in makeup sold at the retailer Claire's in 2017.

Also reached by phone Tuesday, Asbestos Disease Awareness Organization president and CEO Linda Reinstein said the petition is "monumentally important to public health."

Reinstein, a widow who lost her husband to asbestos-related mesothelioma in 2006, said her organization and its allies are fighting to "hold EPA accountable for a risk evaluation that will truly measure the risk of asbestos, a known human carcinogen."

More than 1 million Americans have died from asbestos-related health problems since the EPA's attempt to ban the chemical was overturned by the Fifth Circuit in 1991. About 40,000 Americans die each year from conditions linked to asbestos exposure, according to health data compiled by the University of Washington.

A 2013 study by the National Institute for Occupational Safety and Health found firefighters were more than twice as likely to develop mesothelioma than the general population, mostly due to exposure to asbestos in older buildings during fires.

Other groups backing the petition for review include American Public Health Association, Center For Environmental Health, Environmental Information Association, Safer Chemicals Healthy Families – A Program Of Toxic-Free Future, and Vermont Public Interest Research Group.

The EPA did not immediately respond to an emailed request for comment Tuesday.

Water
Agri-Pulse
Biden administration targets Trump water decisions for review
https://www.agri-pulse.com/articles/15213-biden-administration-targets-trump-water-decisions-for-review
By Brad Hooker

The White House has released a long list of regulations targeted for review by the new administration. Among them is a biological opinion governing the long-term operations of the Central Valley Project and State Water Project.

The Fish and Wildlife Service, along with the Commerce Department, will review the 2019 assessment. The administration has said it will pause litigation over regulations like this. Several lawsuits are currently directed at the Trump administration's biological opinions, including one from the Newsom administration that led to stalled negotiations over voluntary agreements for Bay-Delta outflow.

The EPA is also reviewing a change to the 401 certification rule for the Clean Water Act. Attorney General Xavier Becerra said last year that the Trump administration's change undermined the state's authority for approving or denying certifications for water projects.

The Legislature approved a measure allowing the State Water Board to undercut the rule change, which drew scorn from Central Valley lawmakers, who called it a water grab that hurt farmers.

Message

From: Caughie, Nuala [Caughie.Nuala@epa.gov]
Sent: 3/12/2021 9:52:26 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Afternoon Edition 3/12/2021

Daily News Clips: Afternoon Edition March 12, 2021

Agency

- Waterworld: Michael S. Regan sworn in as EPA Administrator
- Bergeson & Campbell, P.C., JDSupra: House Committee Holds Hearing on "Restoring the Vital Mission of EPA"
- Wisconsin State Farmer: Senate confirms Regan to lead EPA
- Njera Perkins, Afrotech: For the First Time in the EPA's 50-Year History, a Black Man Will Lead the Agency
- Eugene Mulero, Transport Topics: New EPA Administrator Michael Regan Set to Tackle Challenges of Climate Change

Air

- Newton County Times: EPA finalizes revisions to Arkansas' clean-air plan for regional haze and visibility transport

Enforcement:

- Walter Wright, JDSupra: Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Easton, Maryland, Pharmaceutical Packaging Manufacturer Enter into Consent Agreement
- Slater Teague, WJHL: DOJ seeks $3.2M from West Virginia governor's coal companies

Superfund

- Lance Gideon, Reporter Times: EPA selects cleanup for Superfund Site

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Michael S. Regan sworn in as EPA Administrator

https://www.waterworld.com/environmental/press-release/14199239/michael-s-regan-sworn-in-as-epa-administrator

Regan is the 16th Administrator of the U.S. Environmental Protection Agency.

Mar 12th, 2021

WASHINGTON -- Michael S. Regan has been sworn in as the 16th Administrator of the U.S. Environmental Protection Agency (EPA). On his first day, Administrator Regan committed to working closely with and supporting EPA's dedicated career public servants, restoring the role of science and transparency, addressing climate change, and prioritizing environmental justice. Adminstrator Regan is the first Black man and the second person of color to lead the U.S. EPA.

"I'm grateful to President Biden for entrusting me to lead the U.S. Environmental Protection Agency at this critical moment in our country's history," said Administrator Michael Regan. "EPA's career officials are the backbone of this agency, and I am humbled to work alongside them as we confront climate change, stand up for justice and equity, and ensure science is at the heart of our decision-making. We will prove that environmental protection and economic prosperity go hand in hand - and we will seize this opportunity to create a healthier, more just future for all."

Administrator Regan returns to EPA after starting his career at the agency, rising to the role of national program manager responsible for designing strategic solutions with industry and corporate stakeholders to reduce air pollution, improve energy efficiency and address climate change.

Prior to his nomination as EPA Administrator, Michael Regan served as the Secretary of the North Carolina Department of Environmental Quality (DEQ).

As Secretary, he spearheaded the development and implementation of North Carolina's seminal plan to address climate change and transition the state to a clean energy economy. Under his leadership, he secured the largest coal ash clean-up in United States history. He led complex negotiations regarding the clean-up of the Cape Fear River, which had been contaminated for years by the toxic chemicals per- and polyfluoroalkyl substance (PFAS). In addition, he established North Carolina's first-of-its-kind Environmental Justice and Equity Advisory board to better align social inequities, environmental protection, and community empowerment.

Regan is a native of Goldsboro, North Carolina, where he developed a passion for the environment while hunting and fishing with his father and grandfather, and exploring the vast lands, waters and inner Coastal Plain of North Carolina. He is a graduate of the North Carolina Agricultural & Technical State University, making him the first EPA Administrator to have graduated from a Historically Black College and University. He earned a master's degree in Public Administration from The George Washington University.

He and his wife Melvina are proud parents to their son, Matthew.

House Committee Holds Hearing on "Restoring the Vital Mission of EPA"

https://www.jdsupra.com/legalnews/house-committee-holds-hearing-on-8270716/

Bergeson & Campbell, P.C.

On March 10, 2021, the House Energy and Commerce Subcommittee on Oversight and Investigations held a hearing on "The Path Forward: Restoring the Vital Mission of EPA." According to the March 7, 2021, memorandum from Representative Frank Pallone, Jr. (D-NJ), Chair of the Committee, to the Subcommittee, the U.S. Environmental Protection Agency's (EPA) current responsibilities include reviewing national air pollution standards and overseeing or carrying out cleanups at most of the 1,327 sites on the Superfund's National Priorities List. The Toxic Substances Control Act (TSCA) and other laws require EPA to address threats and contamination from chemicals, including per- and polyfluoroalkyl substances (PFAS). In addition, EPA is also responsible for addressing the health impacts that disproportionately affect low-income communities, communities of color, and fence-line communities situated near industrial plants. The memorandum notes that the previous Administration eliminated or weakened more than 170 environmental protections, impairing EPA's ability to pressing environmental challenges. Finally, according to the memorandum, continuing budget and staffing pressures also are impacting EPA's capacity. The memorandum states that "[d]espite having fewer programs to administer at the time, EPA's budget in 1980 was fifty percent higher in inflation-adjusted dollars than it is today. Between fiscal years 2015 and 2018, staffing levels at EPA declined by nearly 2,500 full-time equivalent positions." The memorandum notes that more departures may occur in the coming years, with nearly 40 percent of EPA now eligible for retirement.

Hearing witnesses included:

- Hon. Christine Todd Whitman, EPA Administrator (2001-2003);
- Hon. Carol Browner, EPA Administrator (1993-2001);
- Gwendolyn Keyes Fleming, Former EPA Chief of Staff and EPA Region 4 Regional Administrator;
- Wendy Cleland-Hamnett, Former Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention, EPA; and
- John Deskins, Ph.D., Director, Bureau of Business & Economic Research, West Virginia University.

According to Whitman, the first order of business for the new EPA leadership is to re-establish a commitment to sound science. EPA must also restore the morale of the people at EPA, retaining the expertise that it has while also attracting

the new generation. EPA needs to address environmental justice. EPA has to identify emerging chemicals of concern, as well as deficiencies in the water structure.

Browner suggested that a modern EPA should operate under four parameters: follow the science, the law, enforcement, and environmental justice. According to Browner, if these are the cornerstones of how EPA thinks about its work on a day-to-day basis, then EPA will be able to serve all Americans, including the business community. Browner stated that enforcement is about compliance and fairness. If a company complies with an environmental regulation to achieve an environmental endpoint but its competitor does not, that is a basic unfairness.

According to Keyes Fleming, EPA spending in terms of real dollars is less than half of what the Agency spent in 1980, and its staffing levels are at a 30-year low. Keyes Fleming stated that EPA must recruit and hire the next generation of environmental professionals, with an eye towards diversifying its ranks and leaders. Keyes Fleming outlined five guideposts for EPA: follow the science; follow the law; provide transparency in decision-making; engage all stakeholders; and synergize resources to maximize impact.

Cleland-Hamnett stated that she is concerned that EPA's greatest strength, its career workforce, has been eroded. According to Cleland-Hamnett, a concerted effort at hiring is needed. Cleland-Hamnett noted that staff must have the appropriate resources, data, and infrastructure to support them. Cleland-Hamnett testified that sound, credible, and transparent science is vital to EPA's credibility and effectiveness.

Deskins stated that he wants to ensure that EPA fully considers the economic impact of any policies under consideration. According to Deskins, if EPA moves forward with policies that will have an adverse impact on communities reliant on coal and gas, acknowledging the costs to these communities will help promote investments in those areas. Deskins noted that this is not a new concept and that Section 321(a) of the Clean Air Act requires that EPA conduct employment impact analyses as part of its policy analysis program.

Commentary

The hearing witnesses highlighted issues that will be priorities for the Biden-Harris EPA in restoring the "vital mission" of EPA, including climate change, sound science, and environmental justice. Browner stated during the hearing's question and answer portion that science is at the base of everything that EPA does, and that she "used to say the science made me do it." The Biden-Harris Administration has made addressing climate change a key goal, and as it takes steps to do so, it will need to address concerns from communities reliant on coal and gas. On March 10, 2020, the full Senate confirmed Michael Regan as the new EPA Administrator by a vote of 66 to 34. Having a new, confirmed Administrator is the first step to achieving the Biden-Harris Administration's ambitious goals.

Senate confirms Regan to lead EPA

https://www.wisfarmer.com/story/news/2021/03/12/senate-confirms-little-known-regan-lead-epa/4665210001/

WASHINGTON (AP) — The Senate on Wednesday confirmed North Carolina regulator Michael Regan to lead the Environmental Protection Agency, picking up the pace for confirmations in President Joe Biden's Cabinet.

Regan, who has served as North Carolina's top environmental regulator since 2017, will help lead Biden's efforts to address climate change and advocate for environmental justice, two of the administration's top priorities. He is the first Black man to run the EPA.

The Senate also confirmed Ohio Rep. Marcia Fudge to head the Department of Housing and Urban Development and federal Judge Merrick Garland as attorney general Wednesday.

All three nominees won bipartisan support for their nominations, although Republican Leader Mitch McConnell voted against Regan. McConnell backed Fudge and Garland.

"These aren't the nominees that any Republican would have picked for these jobs," McConnell said ahead of the votes. "But the nation needs presidents to be able to stand up a team so long as their nominees are qualified and mainstream."

McConnell voted against Regan's nomination and announced he will oppose New Mexico Rep. Deb Haaland, Biden's choice to be interior secretary. The two nominees both support "far-left policies that crush jobs" in his state and across the country, the Kentucky Republican said.

Regan and Haaland "both report straight to the front lines of the new administration's left-wing war on American energy" and would "unbalance the balancing act between conservation and the economic comeback we badly need," McConnell said.

He cited Regan's support for the Obama administration's Clean Power Plan to reduce carbon emissions from coal-fired power plants, and Haaland's support for the Green New Deal, a far-reaching, if nonbinding set of proposals to address climate change and reduce economic inequality.

Timing for a vote on Haaland's nomination has not been set.

Regan is known in his home state for pursuing cleanups of industrial toxins and helping low-income and minority communities significantly affected by pollution.

Sen. Tom Carper, D-Del., the chairman of the environment panel, said Regan has a proven record of forging "practical solutions to clean our air and our water, while building a more nurturing environment for job creation and job preservation."

One of Regan's biggest challenges will be returning scientific integrity to an agency that under former President Donald Trump frequently allowed business groups and other special interests to "play a large role in crafting the agency's policies," Carper said.

West Virginia Sen. Shelley Moore Capito, the top Republican on the environment panel, said Regan would return the EPA to the policy agenda of the Obama administration, an agenda she said "absolutely devastated my state and other energy-producing states."

Capito also complained that Regan will take cues from Biden's White House climate adviser Gina McCarthy, a former EPA chief. "For almost two months now unaccountable czar Gina McCarthy has been working both behind the scenes and in front of the press to lay the groundwork for the Biden administration's agenda," Capito said. "She's operating this stronghold office with no transparency, outside of the Senate confirmation process."

Following news of Regan's confirmation hearing, National Corn Growers Association President John Linder says his agency looks forward to working with Regan on issues of importance to corn farmers overseen by the EPA, most notably the Renewable Fuel Standard (RFS).

"The RFS was a game-changer for corn farmers nearly 20 years ago but previous administrations have failed to uphold the law and implement it as Congress intended," Linder stated. "NCGA hopes to have an open dialogue with the new Administrator upon his confirmation and work together to uphold the RFS, reduce emissions through greater use of biofuels, ensure farmers' access to crop protection products based on sound science and seek practical solutions to issues important to agriculture."

For the First Time in the EPA's 50-Year History, a Black Man Will Lead the Agency

https://afrotech.com/for-the-first-time-in-the-epas-50-year-history-a-black-man-will-lead-the-agency

Njera Perkins
Posted on March 12, 2021

President Joe Biden has nominated a new chief administrator to step in for the Environmental Protection Agency.

CNN reports that Michael Regan has been picked through a bipartisan confirmation vote of 66 to 34 for the role that will take aggressive action toward tackling America's climate crisis. Thus, making him the first Black man and 16th administrator in the agency's 50-year history to lead in such a capacity.

According to the Washington Post, Lisa Jackson became the EPA's first Black administrator during the years of former President Barack Obama's term in office. Regan now follows in her footsteps bringing with him 20 years of experience working in the environmental protection sector.

The seasoned environmental advocate, leader, and HBCU grad previously held the post spot of North Carolina's Department of Environmental Quality. He also led the Environmental Defense Fund's efforts to fight against the impact of the climate crisis and air pollution, according to the state's government website.

Additionally, Regan also worked under the EPA during the Clinton and Bush administrations. Now he's returning to play a major role in the Biden administration's climate efforts.

"I knew I wanted to find a way to serve, and that led to my first summer internship at EPA. I spent nearly ten years at EPA under presidents of both parties," Regan told the Senate panel as reported by CNN. "It's an honor of a lifetime to be invited back."

Regan has showed what kind of initiative he plans to take in his new role to help transform the agency and lead it in a new direction. He addressed the climate crisis during his Senate nomination hearing in February, pledging to "move with a sense of urgency."

"Our priorities for the environment are clear: we will restore the role of science and transparency at EPA," he stated. "We will support the dedicated and talented career officials. We will move with a sense of urgency on climate change, and we will stand up for environmental justice and equity."

According to the Washington Post, he also shared that, "We all have a stake in the health of our environment, the strength of our economy, the well-being of our communities, and the legacy we will leave the next generation in the form of our nation's natural resources."

Face2Face Africa reports that President Biden has been very vocal about making America and the world more eco-friendly by reducing the country's gas emissions.

As the new EPA chief, Regan is also dedicated to his mission of focusing on restoring minority and poor communities severely affected by pollution.

Regan has been a huge help at the North Carolina agency, leading the biggest coal ash clean-up in the country after a settlement with Duke Energy, Face2Face Africa shares. Officials are now thrilled to see what he'll do next to help the country at-large fix its environmental issues.

"We're excited to watch him do for the EPA what he did for North Carolina," Dan Crawford — director of governmental relations at the North Carolina League of Conservation Voters — said in a statement this Wednesday. "Put people and policy over politics, and work with scientists, stakeholders, lawmakers of both parties, and above all, the most impacted communities, to protect all Americans from polluters and climate change."

New EPA Administrator Michael Regan Set to Tackle Challenges of Climate Change

https://www.ttnews.com/articles/new-epa-administrator-michael-regan-set-tackle-challenges-climate-change

Eugene Mulero | Senior Reporter

March 12, 2021 2:30 PM, EST

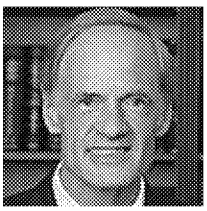
New EPA Administrator Michael Regan will set his sights on the challenges presented by climate change, one of the key issues highlighted by the Biden administration.

The Senate approved President Joe Biden's nominee to lead the environmental agency in a 66-34 vote March 10.

"Michael Regan is the right person for the job. He is a man of deep faith who believes, as we all do, that we have a moral obligation to be good stewards of this planet on which we live together," said Sen. Tom Carper (D-Del.), chairman of the Environment and Public Works Committee.

We have a moral obligation to be good stewards of this planet.

EPW Chairman Tom Carper (D-Del.)



The panel's ranking member, Sen. Shelley Moore Capito (R-W.Va.), was among the lawmakers opposing Regan's nomination.

"So without commitments to different policies than what was pursued in the Obama EPA, I cannot support Secretary Regan today," Capito said."But you know what? I hope he proves me wrong. I hope he makes good on his promise to work with Republicans to help address climate issues. As ranking member of the EPW committee, I stand ready to just do that. We have so much common ground on climate issues."

According to background provided by the EPA, Regan was secretary of the North Carolina Department of Environmental Quality prior to his new role with the agency.

EPA finalizes revisions to Arkansas' clean-air plan for regional haze and visibility transport

http://newtoncountytimes.com/stories/epa-finalizes-revisions-to-arkansas-clean-air-plan-for-regional-haze-and-visibility-transport,51868?

DALLAS – The U.S. Environmental Protection Agency (EPA) is announcing final approval of revisions to the state of Arkansas' clean-air plan for regional haze and withdrawing the Federal plan. The state's regional haze plan addresses emissions that impact visibility at mandatory Class I Federal areas such as national parks and wilderness areas in Ark. and adjacent states. Concurrently, EPA is also finalizing approval of Arkansas' interstate visibility transport provisions.
"This action returns the authority to implement these clean air provisions to Arkansas, and it reflects the importance of working collaboratively with states to achieve the environmental progress EPA works towards every day," said Acting EPA Regional David Gray.
"Arkansans are truly committed to clean air, and improvements in visibility are important to our scenic vistas. The state has worked diligently to submit an approvable plan with appropriate and protective actions to satisfy these objectives. We appreciate the action taken by EPA to reach this final step in removal of the federal plan," said Becky W. Keogh, Arkansas Division of Environmental Quality Director.
In Aug. 2019, Ark. submitted final revisions to address Clean Air Act and Regional Haze Rule for an alternative measure to best available retrofit technology (BART) at the Domtar Ashdown Mill for sulfur dioxide, particulate matter, and nitrogen oxide; and elements of the SIP submittal that relate to these BART requirements at this facility.
In Oct. 2019, the state submitted a separate SIP submittal that addresses interstate visibility transport which covers certain national ambient air quality standards. The action ensures that emissions from Ark. sources are not interfering with measures required to be included in another air agencies' plans to protect visibility.

About Regional Haze

Haze forms when sunlight hits tiny particles of air pollution (both naturally occurring and man-made). The particles absorb some light while other light is scattered before it becomes visible. The greater number of pollutant particles, the more light is absorbed and scattered. The haze reduces clarity and color of what we can see. In addition, pollution that leads to haze can harm people's health and the environment. Exposure to these small particles in the air has been linked to increased respiratory illness, decreased lung function, and even premature death.
The Clean Air Act establishes as a national goal the prevention of any future, and the remedying of any existing, man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas. The Regional Haze rule requires states to make progress toward achieving natural visibility conditions in some of the nation's most treasured areas. In Ark., this includes the Caney Creek and Upper Buffalo Class I areas.

About Visibility Transport

Visibility transport deals with air pollution that interferes with measures that protect against visibility impairment in another state. A fully approved regional haze plan ensures that emissions from Ark. sources do not interfere with measures required to be included in another air agencies' plans to protect visibility.

Hazardous Waste Enforcement: U.S. Environmental Protection Agency and Easton, Maryland, Pharmaceutical Packaging Manufacturer Enter into Consent Agreement

https://www.jdsupra.com/legalnews/hazardous-waste-enforcement-u-s-9655303/

Walter Wright

Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.

The United States Environmental Protection Agency ("EPA") and Aphena Pharma Solutions – Maryland, LLC ("APS") entered into a February 16th Consent Agreement ("CA") addressing certain alleged violations of the Maryland Hazardous Waste Regulations. See Docket No. RCRA-03-2021-0016.

The CA provides that APS operates a facility ("Facility") in Easton, Maryland, whose operations include:

- Chemical mixing
- Blending and packaging of various types of liquids, creams, gels, suspensions, foams, and lotions
- Manufacturing of hand sanitizers, vitamin B12, and nasal inhalers
- Turnkey packaging, repackaging and manufacturing solutions for the pharmaceutical, dietary supplements, animal health, consumer health, and medical device markets

The Facility is stated to be a generator of solid waste and hazardous waste. It is further stated to be engaged in the temporary storage of certain waste in containers.

EPA is stated to have conducted a Compliance Evaluation Inspection ("CEI") at the Facility on April 25, 2018. Further, EPA is stated to have sent a Request to Show Cause and Request for Information Letter to APS on December 4, 2019, providing the company an opportunity to furnish additional information relating to compliance with applicable hazardous waste regulation. Such information is stated to have been provided EPA subsequent to December 4, 2019.

The CA alleges the following violations:

- Operating a Treatment, Storage or Disposal Facility Without a Permit or Interim Status
- Failure to Keep Container of Hazardous Waste Closed
- Failure to Provide Annual Hazardous Waste Training

- Failure to Maintain an Adequate Contingency Plan

The CA assesses a civil penalty of $82,120.

A copy of the CA can be downloaded here.

DOJ seeks $3.2M from West Virginia governor's coal companies

https://www.wjhl.com/news/regional/doj-seeks-3-2m-from-west-virginia-governors-coal-companies/

by: Slater Teague

Posted: Mar 12, 2021 / 03:43 PM EST **/ Updated:** Mar 12, 2021 / 03:43 PM EST

CHARLESTON, W.Va. (AP) — The U.S. Department of Justice is seeking $3.2 million in penalties from Appalachian coal mines owned by West Virginia Gov. Jim Justice over claims they violated a settlement meant to prevent pollution.

Attorneys with the Justice Department filed a motion in U.S. District Court in Virginia on Thursday asking a judge to order the Republican governor's companies to pay the fine and complete remediation work at mine sites.

The U.S. and several states settled and signed a consent decree with the companies in late 2016 to resolve allegations of Clean Water Act violations from Justice-owned mines in Alabama, Kentucky, Tennessee, Virginia and West Virginia. The Environmental Protection Agency had said Southern Coal didn't submit complete and timely discharge monitoring reports, made unauthorized discharges and wouldn't respond to the EPA's requests for information.

Since then, the Justice Department said in its new filing, the defendants have "a long history of (Clean Water Act) violations and non-compliance with the requirements" of the 2016 agreement.

The companies have paid $2.9 million in penalties to date, according to the new court filing. But the complaint said defendants have not paid nearly $3.2 million in separate fines levied in September 2020 over the failure to submit timely permit applications that led to unpermitted discharges at mine sites in Tennessee and Alabama.

The defendants named in the new filing are Southern Coal Corporation, Premium Coal Company Inc., and Justice Coal of Alabama. A lead attorney for the companies and the governor's office did not immediately respond to emails seeking comment.

Upon taking office in 2017, Justice said his children would run his business empire, but he stopped short of forming a blind trust, saying it was too complicated. Justice has enterprises in hospitality, coal mining and agriculture, many of which have become mired in lawsuits.

EPA selects cleanup for Superfund Site

https://www.hoosiertimes.com/reporter_times/free_access/epa-selects-cleanup-for-superfund-site/article_0382a5e6-8378-11eb-9191-3b8ae1d4ab37.html

Staff Report Mar 12, 2021 Updated 19 min ago

The U.S. Environmental Protection Agency announced Friday afternoon that it as selected a cleanup plan for the Pike & Mulberry Streets PCE Plume Superfund site — which comes with an $11.92 million price tag.

The plume stems from chemicals that "were illegally dumped and mishandled" more than 30 years ago in the city of Martinsville.

"EPA listened to concerned residents to determine which cleanup plan to use," EPA Region 5 Acting Administrator Cheryl Newton said in Friday's announcement. "Community input is an important part of any Superfund cleanup and we support and appreciate when residents engage, get involved and provide feedback."

The cleanup plan chosen is a chemical oxidation method, a technique that helps cut down the contaminants.

The federal plan — known as the record of decision — will also include a remedy for the soil that can act as source for vapor intrusion in buildings.

From 6 to 8:30 p.m. on Wednesday, March 24, the EPA will hold a virtual Zoom meeting that will assist in the formation of a community advisory group for the Superfund Site.

"The group will serve as a public forum for all interested parties to learn about site cleanup, present and discuss their needs and concerns, and develop community-based recommendations."

To participate in the Zoom forum, contact Kirstin Safakas at safakas.kirstin@epa.gov, or call 312-919-4621.

Those wishing to participate can also register online at https://bit.ly/3evZB6f.

For more information on the Pike and Mulberry Streets PCE Superfund Site, visit the website https://bit.ly/3tkoKoV.

See Tuesday's *Reporter-Times* for more on the EPA's decision.

Message

From: E&E News [ealerts@eenews.net]
Sent: 3/12/2021 9:18:50 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: March 12 -- E&E News PM is ready

E&E News PM -- Late-Breaking News

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AN E&E NEWS PUBLICATION

E&E NEWS PM — Fri., March 12, 2021

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1. LAW:

Supreme Court packs April calendar with enviro cases

The Supreme Court has filled its April calendar with arguments in environment and energy cases covering a broad range of issues, including pipeline eminent domain and biofuel blending requirements.

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THIS AFTERNOON'S STORIES

2. RENEWABLE ENERGY:

Biden admin advances large solar project on tribal land

3. PUBLIC LANDS:

Utah delegation presses Biden to delay monuments decision

4. CONGRESS:

Lawmakers face 'brutal math of climate change'

UPCOMING HEARINGS AND MARKUPS

5. CALENDAR:

Activity for March 8 - March 14, 2021

A message from POLITICO:

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Message

From: Daguillard, Robert [Daguillard.Robert@epa.gov]
Sent: 1/28/2021 11:55:07 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Afternoon Clips, January 28, 2021

[Reminder: The following hyperlinks will take you to the story's full text, further down this message, if you're reading this report on your laptop or desktop. If you're on your cell, scroll down to find the story you want to read.]

- REUTERS WESTLAW: Lawyer who repped Chevron in climate cases
- The Hill: Court rules against fast-track of Trump EPA's 'secret science' rule
- Politico Pro: Biden brings back Obama's top EPA lawyer
- Associated Press: As Biden seeks a turn on environment, Trump rules to linger
- EcoWatch: EPA Launches Environmental Justice Investigation in Chicago
- National Law Review: New Administration Focus on Environmental Issues Signals More Changes Ahead in Auto Industry
- Washington Post: The Energy 202 - *Republicans prepare to fight Biden's climate actions they call 'divisive and illegal'*
- Bloomberg: Court Order Widens EPA Options to Drop 'Secret Science' Rule (1)
- Chemical and Engineering News: Solvay withheld PFAS toxicity data, group claims

REUTERS WESTLAW: Lawyer who repped Chevron in climate cases among EPA's new top hires
https://today.westlaw.com/Document/Iec082ad060fe11eb8f17bf2624275485/View/FullText.html?transitionType=SearchItem&contextData=(sc.Default)

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REUTERS LEGAL • January 28, 2021

The U.S. Environmental Protection Agency (EPA) sign is seen on the podium at EPA headquarters in Washington, U.S., July 11, 2018. REUTERS/Ting Shen

(Reuters) - Environmental Protection Agency political appointees announced on Wednesday include its former general counsel who, in more recent years, defended Chevron in cases where cities and counties are seeking to hold major oil companies liable for damages tied to climate change.

Avi Garbow, who joins the Biden administration as senior counselor to the EPA administrator, is the latest of a growing number Obama-era veterans to staff the agency's leadership team. He worked as EPA's top lawyer from 2013 to 2017 after being nominated by President Barack Obama.

The attorney also brings to the agency his experience as partner, from 2017 to 2019, at private law firm Gibson Dunn & Crutcher, according to his LinkedIn profile.

In that position, Garbow joined Chevron's legal team in about half-a-dozen lawsuits over the alleged role of major oil companies in exacerbating damages from climate change. That includes a case New York City lost in 2018 in Manhattan federal court against Chevron and its co-defendants including BP PLC. Garbow's name also shows in the San Francisco federal court docket for cases by cities and counties, including Richmond and San Mateo.

Garbow told Reuters: "I will be helping EPA's leadership, and the entire agency, implement the Biden-Harris administration's bold climate and environmental agenda. We have no time to waste in returning EPA to its mission

of protecting human health and the environment, with science, the rule of law, and environmental justice at the fore."

In other apointments, Dorien Paul Blythers, will be EPA's deputy chief of staff for operations. He has worked to promote the candidacy of Vice President Kamala Harris.

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The Hill: Court rules against fast-track of Trump EPA's 'secret science' rule
https://thehill.com/policy/energy-environment/536264-court-rules-against-fast-track-of-trump-epas-secret-science-rule
BY RACHEL FRAZIN - 01/28/21 10:07 AM EST

A federal judge in Montana late Wednesday ruled against the Trump administration's attempt to fast-track a controversial rule about how the Environmental Protection Agency (EPA) considers scientific evidence, endangering its future under the Biden administration.

The Trump EPA had characterized the rule, which would restrict the use of studies that don't make their underlying data publicly available, as procedural, allowing it to go into effect immediately.

Judge Brian Morris, an Obama appointee, disagreed, determining that the rule was substantive and ordering that it can't go into effect until Feb. 5.

Delaying the rule could jeopardize it, as it would now be subject to a new White House memo that freezes pending regulations for 60 days.

Under the memo, President Biden's administration can take action against rules if it determines that they raise "substantial questions of fact, law, or policy."

The Trump administration billed the rule in question as a transparency measure, with former EPA Administrator Scott Pruitt saying it would combat "secret science."

Critics argued that it could undermine the use of important public health studies that have legitimate reasons, such as privacy, to hide underlying data.

The rule didn't eliminate the use of studies with private data, but gave preference to those that made their data public, which critics argued could tip the scales in favor of industry.

In his ruling, Morris argued that that rule was substantive, rather than procedural as the agency contended, because it "determines outcomes rather than process."

"The Final Rule's status becomes particularly clear when one examines what it is missing—any kind of procedure. EPA itself noted in its rulemaking that it would have to issue future guidance on how the rule operates procedurally," he wrote.

He added that the agency lacked "good cause" to exempt the rule from the 30-day delay before it takes effect.

"EPA failed to show a need for urgent implementation when it took more than two-and one-half years to finalize this regulation," Morris wrote.

The ruling also raises questions about the Congressional Review Act (CRA), under which Congress can overturn agency rules issued at the end of a president's term.

Then-EPA Administrator Andrew Wheeler told reporters earlier this month that the CRA was not applicable because "this is an internal housekeeping regulation" and is not costly.

Deepak Gupta, one of the lawyers on the case, told The Hill that he thinks the court's decision that the rule is substantive, rather than just a housekeeping matter, means there's a better chance the CRA could be used against it.

"Yesterday's decision makes it much more likely that Congress may repeal this rule under the Congressional Review Act. The decision also makes it much easier for the EPA to postpone this rule and ultimately rescind it," Gupta said.

The rule was challenged by three environmental groups, the Environmental Defense Fund (EDF), Montana Environmental Information Center and Citizens for Clean Energy, which all hailed the ruling.

"The Trump administration broke the law by issuing a harmful rule to censor life-saving medical science, and broke the law again by trying to make the rule immediately effective," EDF senior attorney Ben Levitan said in a statement. "The Censored Science Rule weakens EPA's ability to protect Americans from dangerous pollution, toxic chemicals and other threats."

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Politico Pro: Biden brings back Obama's top EPA lawyer
https://subscriber.politicopro.com/article/2021/01/biden-brings-back-obamas-top-epa-lawyer-3986636
BY ANNIE SNIDER

|01/27/2021 02:01 PM EST
The Biden administration is bringing back the former top EPA lawyer who helped craft major Obama-era environmental rules to serve as senior counselor to the agency administrator.

The details: Avi Garbow will bring a deep legal and regulatory expertise to the Biden EPA as it seeks to aggressively address climate change and environmental justice, while reversing the Trump administration's environmental rollbacks.

Garbow served as EPA general counsel from 2013 to 2017, playing a key role in the crafting of virtually every major regulation of that era, from the Clean Power Plan and the Waters of the U.S. rule to rules governing coal ash and air pollutants. He has most recently worked as "environmental advocate" for the outdoor retailer Patagonia.

Other appointees: The Biden administration also named a handful of other appointees to EPA:

— Dorien Paul Blythers to be deputy chief of staff for operations. Blythers served as regional political director for Vice President Kamala Harris' presidential campaign.

— Kathleen Lance to be director of scheduling and advance for the administrator. Lance most recently served at North Carolina's Department of Environmental Quality as special assistant to secretary Michael Regan, now Biden's nominee to lead EPA.

— Fernando Mercado-Violand to be deputy White House liaison. Mercado-Violand most recently worked as deputy state and political director for the Biden-Harris campaign in Virginia.

What's next: Additional appointees are expected to be announced in the coming days.

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Associated Press: As Biden seeks a turn on environment, Trump rules to linger
https://abcnews.go.com/Technology/wireStory/biden-seeks-turn-environment-trump-rules-linger-75541150
Longtime safeguards for U.S. bird populations that were stripped away by the Trump administration are among more than 100 business-friendly rules getting a second look under President Joe Biden
By JOHN FLESHER and MATTHEW BROWN Associated Press
January 28, 2021, 11:47 AM

President Joe Biden wasted little time seeking to turn things around. Hours after taking office, he ordered a review of his predecessor's decision to weaken enforcement of the century-old Migratory Bird Treaty Act. It was among more than 100 business-friendly Trump actions on the environment that Biden wants reconsidered and possibly revised or scrapped.

A White House statement Wednesday described them as "harmful rollbacks of standards that protect our air, water, and communities." And the president targeted oil and gas leasing on federal land and subsidies for those industries in his bid to slow climate change, while promising stepped-up land and water conservation.

Despite the quick start, it will take months or years to reverse policies set in motion by Trump's team — including those involving the bird treaty rollback, which happened as North American populations continued a decline that has reached 3 billion — a one-third overall drop — since 1970.

Many rules Trump went after originated with former President Barack Obama and took him years to undo, continuing a decades-old, back-and-forth between Democratic and Republican administrations with starkly differing approaches to environmental regulation.

"You have the worst-case scenario of partisan ping pong," said Clint Woods, a former Environmental Protection Agency deputy assistant administrator under Trump.

Environmental activists are pressing for fast action. They say returning to the pre-Trump status quo is no longer enough as hundreds of millions of birds die annually at the hands of industry, global temperatures rise and poor communities remain vulnerable to air and water pollution.

Biden faces similar challenges as he inherits Trump's actions across the environmental spectrum — from removal of endangered species protections for gray wolves, to loosened energy standards for washers and dryers and reversal of the Obama administration's proposed ban on chlorpyrifos, a crop pesticide some scientists say could harm children.

Business groups lobbied for Trump's deregulatory approach. Critics said it crippled bedrock environmental protection laws, slashed agency funding and slackened enforcement.

"There's a huge amount of work to be done," said Erik Olson, a senior strategic director with the Natural Resources Defense Council. "The Trump administration not only did their best to roll back rules, but tried to eviscerate the basic infrastructure of the agencies. They brought in people who viewed it as their job to keep agencies from carrying out their missions."

Mandy Gunasekara, EPA chief of staff for part of Trump's term, said Biden's early acts signaled a turnaround from the Republican administration's efforts to balance economic growth with environmental protection. Those include canceling a permit for the Keystone XL oil pipeline and halting energy leasing in the Arctic National Wildlife Refuge.

"In the real world where people are breathing air and drinking the water and living on once-contaminated land, we made considerable progress," Gunasekara said. "Instead of trying to wipe the slate clean, they should build off the good work we've done."

One cause for optimism, environmental advocates said, is that most of Biden's initial appointees to key posts are former insiders. Gina McCarthy, the national climate adviser, served as Obama's EPA chief. Michael Regan, tapped to lead EPA, was an air quality specialist there.

"This is a team of experts as opposed to a team of novices," said Ann Mesnikoff, federal legislative director for the Chicago-based Environmental Law and Policy Center.

Some Trump actions were taken through decrees and documents that can be rescinded or revised. Biden staffers will comb through a flurry of measures from Trump's last days that haven't taken effect and could be pulled back, such as the bird death rule.

But some policies can be undone only through multi-year grinds involving scientific research, public comment periods and lobbying from advocacy groups.

Among them: last year's weakening of the National Environmental Policy Act, a Nixon-era law requiring federal agencies to consider how projects such as oil pipelines could harm natural surroundings. Trump's revision shortened reviews and exempted some projects.

Restoring the law's reach is "an essential tool for achieving climate goals and equity for vulnerable communities" — both Biden priorities, said Oday Salim, an assistant professor of environmental law at the University of Michigan.

Other Trump rollbacks include a reduction of water bodies protected from pollution under the Clean Water Act and changes in how the EPA evaluates science and calculates benefits from pollution reductions. Biden called for action on those two EPA rules as soon as possible.

Courts already intervened to halt some Trump rules and policies, including attempts to open vast western lands to energy development, grazing and mining. An appeals court last week tossed a redo of an Obama-era plan to regulate greenhouse gas emissions from power plants.

The Trump administration lost or withdrew proposed rule changes in almost 80% of 109 court challenges tracked by the Institute for Policy Integrity at New York University law school. Past administrations have lost or backed down in 30% of cases, said adjunct professor Bethany Davis Noll, who helped compile the data.

Yet the federal judiciary became more conservative under Trump, who appointed nearly 30% of active judges, according to the Pew Research Center. Six of the Supreme Court's justices are Republican appointees.

Environmental advocates acknowledge the hurdles but want an aggressive response to Trump's actions, particularly those undermining policies that had survived under both parties.

The law protecting migratory birds is one.

Under Trump, the government stopped pursuing punishments for accidental but preventable bird deaths, such as when they collide with power lines or drown in oil waste pits. Enforcement cases against companies dropped from almost 60 cases annually on average to zero.

Virginia's Democratic governor blamed the change for the 2019 destruction of a nesting ground for 25,000 shorebirds to make way for a road and tunnel, after federal officials said conservation measures were no longer required.

A judge later rejected the Interior Department's justification for the bird policy change. So the department adopted a regulation doing the same thing.

Although Biden's administration could withdraw it, bird advocates want even stronger protection than before, which would require a time-consuming new rule.

"We have to think smarter, we have to think broader than the Obama administration to accomplish conservation and environmental protection," said Sarah Greenberger, former senior advisor in Obama's Interior Department and now an Audubon Society vice president.

Flesher reported from Traverse City, Michigan, and Brown from Billings, Montana. Contributing to this story were AP writers Christina Larson in Washington, D.C., Tammy Webber in Fenton, Michigan, and Janet McConnaughey in New Orleans.

On Twitter follow John Flesher: @JohnFlesher and Matthew Brown: @MatthewBrownAP

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EcoWatch: EPA Launches Environmental Justice Investigation in Chicago
https://www.ecowatch.com/environmental-justice-chicago-2650168769.html?rebelltitem=1#rebelltitem1
Climate NexusJan. 28, 2021 11:51AM ESTCLIMATE

The U.S. EPA launched an environmental justice investigation this week into the relocation of a polluting scrapyard from a predominantly white and wealthy neighborhood on Chicago's North Side to a predominantly poor and Latinx neighborhood on the city's Southeast Side last year.

The investigation stems from complaints brought by Southeast [Chicago] Environmental Task Force and the Chicago Southeast Coalition to Ban Petcoke, which allege state environmental regulators colluded with city agencies and developers to move polluting industries out of gentrified neighborhoods into already heavily polluted neighborhoods predominantly populated by people of color.

"We refer to ourselves as a sacrifice zone," Peggy Salazar, a lifelong Southeast Side resident and director of SETF, told Grist.

"The revitalization of parts of Chicago are planned, and they frame the [South and West Sides] as the accommodating communities. To them, we're here to accommodate — not participate — in the revitalization."

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National Law Review: New Administration Focus on Environmental Issues Signals More Changes Ahead in Auto Industry
https://www.natlawreview.com/article/new-administration-focus-environmental-issues-signals-more-changes-ahead-auto
Thursday, January 28, 2021

The auto industry has been planning for the impact on a change in administration on many fronts. As previously discussed, the new administration has a strong focus on environmental policy, and is expected to make sweeping changes. What is potentially in store for the auto industry? The first few days in office provide clues to what will be coming.

A week into office, the Biden administration has made the following moves, among others pertinent to the auto industry:

Rejoining the Paris Agreement. The Paris Agreement is an international treaty aimed at reducing greenhouse gas emissions. The Trump administration had withdrawn from the Paris Agreement.

Fuel Economy. Issuing an executive order for immediate review of agency actions taken during the Trump administration, including fuel economy. This includes direction to consider suspending, revising, or rescinding the: "Establishing Ambitious, Job-Creating Fuel Economy Standards: 'The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program,' 84 Fed. Reg. 51310 (September 27, 2019), by April 2021; and 'The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks,' 85 Fed. Reg. 24174 (April 30, 2020), by July 2021." Biden further ordered that "in considering whether to propose suspending, revising, or rescinding the latter rule, the agency should consider the views of representatives from labor unions, States, and industry." This follows a campaign promise to pursue more stringent fuel economy standards rolled back under Trump.

Electric Vehicles. Issuing an executive order regarding transforming the federal fleet of vehicles to electric or clean energy vehicles, made in the US. This follows announcements earlier this week by Biden that he intended to move the 650,000 federal fleet to EVs, in conjunction with his Buy American executive order.

Charging Infrastructure. Focusing on building an electric vehicle charging infrastructure. This goes hand in hand with the federal fleet but aims to transform the current charging station infrastructure to be broader and more accessible.

California Emissions. The industry is also expecting Biden to reverse the Trump administration's waiver on California to set stricter standards. This had left the auto industry divided, with manufacturers picking sides in the battle.

In remarks on January 27 in conjunction with his climate change, Buy American, and environmental executive orders, Biden described his administration's goals as "one million new jobs in the American automobile industry." As the administration continues ramping up its actions, we will continue tracking the developments and impact for the auto industry.

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Washington Post: The Energy 202 - *Republicans prepare to fight Biden's climate actions they call 'divisive and illegal'*
https://www.washingtonpost.com/politics/powerpost/the-energy-202/?gsBNFDNDN=undefined&utm_campaign=wp_the_energy_202&utm_medium=email&utm_source=newsletter&wpisrc=nl_energy202
1/28/21
By Dino Grandoni
with Alexandra Ellerbeck
Republicans prepare to fight Biden's climate actions they call 'divisive and illegal'

We are only one week into Joe Biden's presidency, and Republican lawmakers are raring for a fight as his administration begins an ambitious effort to address global warming.

A flurry of early actions – culminating with a sweeping executive order Biden signed Wednesday – has prompted swift backlash from GOP lawmakers ready to defend the fossil fuel sector and the jobs it sustains in many of their states.

Republicans say the president's initial calls for unity feel empty with what they consider an attack on the energy sector during an economic recession that already has the industry ailing.

"You can't just go cold turkey overnight," Rep. Bruce Westerman (Ark.), the top Republican on the House Natural Resources Committee, said in a recent interview. "You've got to figure out a way to keep the economy strong."

President Biden signs an executive order on climate change at the White House. (Anna Moneymaker/EPA-EFE/Shutterstock)

Biden and his environmentalist allies, however, say there is a high cost to waiting to stop the dangerous warming that climate scientists warn will happen if the world continues burning oil, gas and coal at the current rate over the next decade.

"In my view, we've already waited too long to deal with this climate crisis," Biden said in a speech at the White House Wednesday. "We can't wait any longer."

Biden's energy secretary nominee is bearing the brunt of the Republican pushback so far.

Confirmation hearings for even his uncontroversial Cabinet picks have become forums for Republican lawmakers to air their grievances with recent Biden decisions, including calls to calculate the cost of carbon emissions to society and to pause oil and gas leasing on federal lands and waters.

Biden and his team say his climate agenda doubles as a plan to create thousands of union jobs constructing and installing wind turbines, solar panels, electric cars, charging stations and the like. "I am obsessed with creating good-paying jobs in America," energy secretary nominee Jennifer Granholm told senators during her hearing Wednesday.

But Republicans from oil- and gas-producing states grilled her on how quickly those jobs would come to fruition.

"If you've lost a job that is putting food on the table now, it's cold comfort to know that years from now — perhaps in a different state with a different training within which you have — there'll be another job available," said Sen. Bill Cassidy of Louisiana, whose coastline is dotted with offshore oil platforms.

Sen. John Barrasso of Wyoming, the nation's top coal-mining state, grilled Granholm about the halt in new oil and gas leasing on federal lands and waters. "I'm not going to sit idly by," he said, "if the Biden administration enforces policies that threaten Wyoming's economy." His office issued a statement calling Biden's decision on leasing "divisive and illegal."

In response, Granholm noted Biden's executive order does not ban drilling on the thousands of leases already sold to drillers.

Environmental activists and think tanks allied with Democrats were quick to come to the defense of the Biden administration when attacked by Republicans and the fossil fuel sector, arguing industry has influenced the debate around climate policy for too long.

"Big Oil's sky-is-falling claims are unfounded," said Jenny Rowland-Shea, a senior policy analyst for public lands at the Center for American Progress.

Biden's other Cabinet picks are also being pressed.

Sen. Dan Sullivan (R-Alaska) said in an interview Tuesday that he's asked every Biden Cabinet nominee whether they're committed to sustaining oil and gas development along with renewable energy in the United States.

"I can't find a Cabinet official that I've interviewed who has said, 'I am going to be a strong advocate for a robust energy sector that makes us energy independent," he said "I've asked them all. Not a one." He added it was this sort of attitude that prompted him to vote against Treasury Secretary Janet Yellen despite the fact that she's "incredibly qualified, amazingly qualified."

Meanwhile, Ted Cruz of Texas, the top oil-producing state, asked commerce secretary nominee Gina Raimondo about Biden's decision to nix the Keystone XL pipeline.

"What would you say to those 11,000 construction workers whose jobs have been destroyed by the stroke of a pen?" Cruz said, though that number refers to temporary jobs, barring 50 or so permanent positions.

"I would say that we're going to get you to work," she responded. "I would say that climate change is a threat to all of us."

A handful of GOP moderates, such as Sens. Lisa Murkowski (Alaska) and Mitt Romney (Utah), are willing to break with their party on former president Donald Trump's second impeachment trial and other big issues. But as representatives of oil- and gas-producing states, they are not as apt to cheer on Biden's climate agenda.

"For us in resource-based states, I just hope you hear the concern," Murkowski told Granholm. "We're a state that's seeing the daily impact of climate change, so we know that we need to be aggressive. But we also know that we have to be [an energy] provider."

Republicans are mulling ways of shaping — or stalling — Biden's climate agenda.

The initial reaction put a damper on hopes of much of the rest Biden's climate agenda, which will require approval from Congress, getting bipartisan support.

With a 50-50 split in the Senate, Democrats need some GOP help to overcome the 60-vote filibuster threshold to pass sweeping legislation. Riled-up Senate Republicans may be primed to block much of Biden's legislative agenda on climate.

On the other side of the Capitol, top Republicans plan to talk to Democrats from oil, gas and coal states. The path for bills to pass the House got narrower for Democrats after losing seats in the 2020 election.

"Republicans, Democrats and independents all breathe the air and drink the water, but I don't think this is the right approach," said Westerman, who advocates for planting and harvesting trees to keep carbon out of the air.

"We've got to make that argument to our friends across the aisle," he added. "If you're a Democrat in Texas, Colorado, New Mexico, Pennsylvania, Louisiana — go down the list of these states that this is going to have dramatic negative impacts."

Outside Washington, six Republican attorneys general warned Biden not to overstep his authority with his executive actions. West Virginia Attorney General Patrick Morrisey, who led the letter, sued to block the Obama administration's efforts to curb greenhouse gas emissions from power plants.

Now, Morrisey told Fox News that Biden's climate plan is "much more radical" than President Barack Obama's. "The president is really taking a wrecking ball to many of the states that have oil, gas, coal, manufacturing jobs."

Juliet Eilperin contributed to this report.

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Bloomberg: Court Order Widens EPA Options to Drop 'Secret Science' Rule (1)
https://news.bloomberglaw.com/environment-and-energy/court-order-gives-epa-more-options-to-drop-secret-science-rule
Jan. 28, 2021, 4:05 PM; Updated: Jan. 28, 2021, 5:29 PM

- Federal decision opens several pathways for Biden administration
- Regulatory scholars see no harm in trying all options
- A federal court decision delaying the effective date of the EPA's science transparency rule gives the Biden administration a pathway to unravel it, including the use of the same procedural tool the Trump administration team used to write it, legal scholars say.

The U.S. District Court for the District of Montana said on Wednesday that the Environmental Protection Agency hadn't justified its decision to put the rule in effect right after its publication in the Federal Register—instead of after 30 days, as is standard practice. That created an opportunity for the Biden administration to try sweeping the rule into a Jan. 20 memo that pauses all Trump-era rules that hadn't taken effect by that date, said Amit Narang, a regulatory policy expert with the watchdog group Public Citizen.

The memo tells agencies to consider postponing Trump-era rules for 60 days, and possibly open a 30-day comment period to rethink them.

The Strengthening Transparency in Regulatory Science (RIN:2080-AA14) rule limits the EPA's ability to write regulations that are unpinned by scientific research that can't be reproduced or is based on underlying data that isn't public—seen by critics as a bid to block tough new environmental regulations

Sidney Shapiro, an administrative law professor at Wake Forest University, said it's possible that freezing the rule would be challenged in court, since the executive order technically applies to rules that haven't taken effect. The EPA rule had already taken effect, kicking in on Jan. 6.

Still, that doesn't mean the Biden EPA shouldn't try—then see if anyone tries to sue, Shapiro said.

"It seems to me the best strategy for them is throw everything against the wall and try to get rid of it one way or another," he said.

Asking for More Time

Jonathan Martel, a partner at Arnold & Porter Kaye Scholer LLP, added that, because the Jan. 20 memo is only a memo, it's not subject to the same rigorous standards of interpretation as a statute or regulation.

"A more natural reading of the regulatory freeze memo is that it would apply," Martel said.

Whether the Biden administration chooses that path or not, it now has until Feb. 5 to claim a longer extension on the rule's effective date under the "good cause" exemption under the Administrative Procedure Act, according to Cary Coglianese, a regulatory law professor at the University of Pennsylvania Law School.

If that exemption is challenged in court, it could well be seen as reasonable, given the need for a new administration to "simply ask for time to take a look at the rule," Coglianese said. The shorter the extension the EPA wants, the likelier it is to be successful in court, he said.

The Trump administration itself used the "good cause" exemption as a rationale for putting the rule into effect right away, arguing its goal of ensuring transparency "is crucial for ensuring confidence in EPA decision-making."

Whatever extension the EPA ends up with, it could use that time to kick off its own, separate rulemaking to undo the Trump rule.

Ignore for Now

In the meantime, the agency could keep working on other rulemakings as if the Trump rule essentially doesn't exist, said Adam Finkel, a professor of environmental health at the University of Michigan.

Even if the rule survives, it won't affect any of the EPA's work until the next time it finalizes a major regulation which is then challenged in court, according to Finkel.

"This gives them a good, long time—maybe a year, maybe two—before it really matters," he said.

The EPA didn't immediately respond to a question about what it plans to do. However, just hours before the Montana decision, Biden signed a memo pledging to use "well-established scientific processes" in federal decision-making, underscoring the strong likelihood that his administration will try to undo the rule.

'Like Herpes'

Still another option is for the EPA to order a longer postponement under section 705 of the Administrative Procedure Act, which lets agencies stay effective dates if rules are being legally challenged, said Richard Revesz, an administrative law professor at New York University.

In addition to the Montana suit, a separate federal lawsuit has already been filed against the science transparency rule in New York.

Letting those suits play out, and hoping courts rule against the Trump regulation, is one way of nixing the rule permanently, said Dan Costa, who served as national program director of air, climate, and energy at EPA's Office of Research and Development under President Barack Obama.

"This has been going on for 25 years," said Costa, professor of environment sciences and engineering at University of North Carolina. "It's like a herpes infection that comes back every few years to go after the environmental community to try to undermine the science. And it'll come back again unless they come up with some way of putting it to rest in a permanent way."

Role for Congress
Still another option is for Congress to invoke the Congressional Review Act, which gives the House and Senate time after a rule is finalized to scrap it with a simple majority vote, said Daniel Walters, an assistant professor at Penn State Law.

"At the end of the day, using the Congressional Review Act to nullify this rule prevents a future administration from issuing another rule that is substantially the same, and I think that prospect would be more attractive than a general rescission or vacatur in court for the Biden administration," Walters said.

"I suspect they'll return to the Congressional Review Act in the end, and this decision probably doesn't affect that avenue," he said.

But Mandy Gunasekara, a former EPA chief of staff during the Trump administration, questioned the wisdom of trying to scrap the rule at all.

"I hope the new administration resists the partisan temptation to undo our work, and instead builds off of our comprehensive efforts to increase public awareness and trust in the scientific underpinnings of agency decisions," Gunasekara said.

(Updates with additional commentary in final two paragraphs.)
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Chemical and Engineering News: Solvay withheld PFAS toxicity data, group claims
https://cen.acs.org/environment/persistent-pollutants/Solvay-withheld-PFAS-toxicity-data/99/web/2021/01
Environmentalists petition US EPA to impose $434 million penalty under toxic substances law
by Britt E. Erickson
JANUARY 28, 2021

An environmental advocacy group is urging the EPA to fine Solvay for allegedly withholding toxicity data on chloroperfluoropolyether carboxylates, chemicals that have varying numbers of perfluoroethyl (red) and perfluoropropyl (black) groups.

Environmental advocates are urging the US Environmental Protection Agency to fine Solvay Specialty Polymers a total of $434 million for allegedly withholding information about the toxicity of per-and polyfluoroalkyl substances (PFAS) used by the company as processing aids to make fluoropolymers.

At issue are compounds called chloroperfluoropolyether carboxylates that Solvay used as replacements for surfactants containing salts of perfluorononanoic acid (PFNA) or perfluorooctanoic acid (PFOA).

Solvay stopped using those two chemicals more than a decade ago because they are toxic and persist in the environment. Both are known drinking water contaminants.

In a Jan. 26 petition, the Environmental Working Group (EWG), an advocacy organization, claims that Solvay violated reporting requirements under the Toxic Substances Control Act (TSCA) by waiting more than 5 years to notify the EPA about potential risks to human health and the environment posed by chloroperfluoropolyether carboxylates. According to the EWG, Solvay identified risks in a 4-week oral toxicity study in rats in 2005, but the company didn't send the information to the EPA until 2011. The EWG also claims that Solvay has known since at least 2011 that chloroperfluoropolyether carboxylates accumulate in human blood, but the company didn't send biomonitoring data of its workers to the EPA until late 2019.

"We suspect that Solvay deliberately kept these damning toxicity studies from the EPA—a serious violation of federal law that requires companies to immediately report any evidence they uncover that a chemical may pose a substantial health hazard," Ken Cook, president of the EWG, says in a statement. The group is encouraging the EPA to fine Solvay the maximum penalty under TSCA.

In an emailed statement, Solvay calls the allegations from the EWG "misguided and without merit." The company says that it is in compliance with TSCA requirements.

The toxicity data and identities of the compounds in question were made public 2 months ago when Solvay announced that it was phasing out the chemicals, the EWG says. The company previously claimed that the identities of the compounds was confidential business information.

A Solvay spokesperson confirmed in an email that the company has developed new nonfluorosurfactant technologies and is phasing out the use of fluorosurfactant processing aids.

The move comes after scientists from the New Jersey Department of Environmental Protection and the EPA reported last year finding several chloroperfluoropolyether carboxylates in soil near Solvay's West Deptford plant in Gloucester County, NJ (Science 2020, DOI: 10.1126/science.aba7127). The New Jersey researchers claimed that the compounds are potentially just as toxic as PFOA and PFNA. In November, New Jersey sued Solvay and Arkema, which owned the facility in the 1980s and used several PFAS to make fluoropolymers, to pay for remediation of contaminated drinking water near the site.

Chemical & Engineering News

Message

From: Daguillard, Robert [Daguillard.Robert@epa.gov]
Sent: 1/25/2021 11:20:40 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Afternoon News Clips, January 25, 2021

[Reminder: The following hyperlinks will take you to the story's full text, further down this message, if you're reading this report on your laptop or desktop. If you're on your cell, scroll down to find the story you want to read.]

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Columbus Dispatch - OPINION: Many challenges await a revitalized US EPA

WSJ: Biden's Executive Orders Signal Collision Course With GOP

Air

Inside EPA: Trump EPA Supporters Likely To Seek High Court Review Of ACE Vacatur

Inside EPA: Biden EPA Grapples With Long-Running Fights Over Regional Haze Policy

Bloomberg: Clean air issues take a top spot in Biden's agency priorities

PFAS

Medill: Biden administration looks set to target 'forever chemicals,' as 3M warns about 'onerous regulation'

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Beef Magazine: Biden administration: Will farmers see another WOTUS redo?

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Columbus Dispatch - OPINION: Many challenges await a revitalized US EPA
https://www.dispatch.com/story/opinion/columns/2021/01/25/column-many-challenges-await-revitalized-us-epa/6670766002/

Jim Simon
Early in my corporate career, I was tasked by my employer, Allied Chemical (now Honeywell), to develop a briefing book on the contents of the company's waste disposal sites to help the environmental affairs department address which locations would require cleanup under the federal "Superfund" law of 1980.

I still vividly recall looking at maps of all polluted groundwater zones around the U.S. and New Jersey in particular. Those visuals brought home the need to address a growing national crisis.

A driving influence behind the creation of the Superfund law was President Richard M. Nixon's executive order creating the U.S. Environmental Protection Agency, which turned 50 in 2020. Given the Trump administration's cuts to the EPA's budget and scope, the anniversary went virtually unnoticed.

Over the years, the EPA's influence has ebbed and flowed under different presidencies, but its mandated focus on air and water quality, hazardous waste and regulation of toxic chemicals has yielded impressive results. Auto emissions have been dramatically reduced, DDT, chlorofluorocarbons and PCBs were banned, and many waterways were cleaned up. Cooperation between federal and state environmental regulators often was exemplary.

The national population is now about 125 million greater than in 1970. Given the increase in polluting activities that accompanies such an increase, funding and support for the EPA must be strengthened to both meet our domestic public health challenges and to contribute an enhanced U.S. role in addressing climate change.

Like the coronavirus, air and water pollution know no boundaries.

Approximately 10 million Americans still get their drinking water through lead pipes, as did the citizens of Flint, Michigan. According to the American Lung Association, 125 million Americans live in counties with unhealthy air quality. More than half of the U.S. population lives within three miles of a hazardous waste site. The redevelopment of factory sites and growth of housing developments in former agricultural and industrial areas with contaminated soil requires effective groundwater monitoring and remediation. Some coastal areas are still plagued by pollution.

A strategic agenda for incoming EPA administrator Michael Regan, who worked at the EPA in air quality programs under presidents Clinton and (George W.) Bush, should include:

- Rebuilding the EPA's scientific research capability, which was restricted under the Trump administration, and strengthening enforcement of regulations in poor communities that typically are the most affected by pollution issues. Expect the Biden administration to create a new climate and environmental division at the U.S. Justice Department.

- Partnering closely with states to develop strengthened effluent guidelines needed to better mitigate groundwater pollution, including runoff from farmlands.

- Coordinating with state and regional environmental authorities to raise awareness of waste recycling initiatives and to develop a more-robust domestic market for recycled materials. The EPA estimates that 75% of American waste is recyclable but only 30% is recycled.

- Partnering with private industry to promote both the science supporting and production of environment-friendly products. The EPA's Green Chemistry Program has recognized more than 100 technologies designed to reduce the use or creation of hazardous chemicals, save water, and reduce greenhouse gases. Expect corporations with sustainable business models to help lead the charge.

- Accelerating efforts to clean up land at the remaining thousands of EPA-identified hazardous waste facilities.

As I've noted previously, one of the longer-term benefits of the COVID-19 crisis should be an enhanced respect for science. If the EPA and other science-based federal departments and agencies can leverage that respect to gain funding and support for their programs, the public health of Americans will improve for generations to come.

Jim Simon is a central Ohio resident and former chief communications officer of several corporations.
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Inside EPA: Trump EPA Supporters Likely To Seek High Court Review Of ACE Vacatur
https://insideepa.com/daily-news/trump-epa-supporters-likely-seek-high-court-review-ace-vacatur
January 25, 2021
Supporters of the Trump EPA's Affordable Clean Energy (ACE) power plant greenhouse gas rule that was vacated by a federal appeals court are likely to ask the Supreme Court to reverse the decision and reinstate the rule, sources say, potentially complicating the Biden administration's plans for regulating GHGs from the utility industry.

But it is unclear whether ACE's supporters will petition for high court review now or wait to litigate over the Biden EPA's eventual replacement for the key Trump administration rule, which the U.S. Court of Appeals for the District of Columbia Circuit on Jan. 19 vacated and remanded to EPA.

An appeal is considered nearly assured because the ruling in American Lung Association (ALA), et al. v. EPA, et al., was not unanimous, with two of the judges -- Obama appointees Patricia Millett and Nina Pillard -- holding that EPA relied on a "fundamental misconstruction" of its Clean Air Act authority when it scrapped the broader Obama-era Clean Power Plan (CPP) GHG rule and replaced it with the much narrower ACE rule.

The third judge, Trump appointee Justin Walker, concurred with some of the majority decision in ALA but also floated arguments seen as inviting conservative justices on the Supreme Court to review the case. He agreed with arguments from industry and GOP-led states that the Clean Air Act prohibits EPA from regulating power plant GHGs under section 111(d) because it already regulates their air toxics under section 112.

Section 111 establishes the agency's standards of performance for new stationary sources program, while section 112 details the scope of EPA air rules for hazardous air pollutants.

In ACE, the Trump EPA determined it was unambiguously limited by the plain reading of the law to impose narrow GHG reduction measures inside a coal plant's fenceline. But the majority opinion held that "is wrong. For the EPA to prevail, its reading must be required by the statutory test. It fails for at least three reasons, any of which is alone fatal."

One former Trump administration source expects intervenors on behalf of ACE to seek immediate high court review, particularly because of the split panel ruling and the opening Walker provided.

"West Virginia and various industry groups have been engaged on this all along and this is an important issue with immense consequences for the power of EPA to regulate, not only as it relates to the particular industry here . . . but more generally" for any type of GHG rule for any industry sector under section 111(d) of the air law.

"This is the ultimate mousehole of the Clean Air Act," the source says of 111(d), which has been "scarcely used." And I would anticipate that you will continue to see a lot of debate about whether or not a [GHG] trading program, particularly on the size and scale and scope of what was contemplated in the CPP" would pass court muster.

The Biden EPA will also have to be more strategic when it begins work on a replacement rule, particularly if it wants to model if after the CPP, because the D.C. Circuit did not explicitly uphold the rule, the source notes. "All the recent decision says is they have the legal authority to do something like the CPP," which is "famously out of date" because it is based on years-old data on power plant GHGs.

Also, the two judges in the majority did not address all of the issues raised by ACE proponents for why the air law bars rules like the CPP and instead "adopted their position based on prior interpretations of the statute," including giving "a fair amount of weight" to the fact that a prior administration sought to implement an emissions trading program under that section even though it never took effect," the source adds. "The question of the legal authority very much continues to be an open question, and I think there are few individuals who opposed the CPP that have read the majority opinion and consider that very persuasive on the ultimate legal question," the source stresses.

Potential Future Policy

Also Seth Jaffe, a partner at the Foley Hoag law firm, writes in a Jan. 20 "Law & the Environment" blog post that the high court may be receptive to upholding the D.C. Circuit ruling.

He points to the third reason the judges found ACE to be unlawful -- that the air law does not "confine the EPA to designating a best system consisting of at-the-source controls" -- as most persuasive for conservative justices.

However, he stops short of saying the court would agree with the appellate court's reasoning, in part because the Trump administration issued ACE in a deliberate attempt to constrain a future administration from issuing broad 111(d) rules.

If "the Biden administration resurrects the [CPP] or something like it," then it "may well thank the Trump administration for its hubris and for the judicial decision that was the consequence of that hubris," Jaffe writes.

Also several Republican lawmakers harshly criticized the ruling, blaming "activist" judges and suggesting strong opposition to any Biden EPA attempt to pursue a much broader power plant GHG rule.

Sen. Shelley Moore Capito (R-WV) told a West Virginia newspaper that the "striking down of the ACE Rule today, timed by the panel's liberal majority for the last full day of the Trump administration, is a disaster for regulatory certainty in the power sector."

She also noted the state was close to having EPA finalize its plan to implement ACE. "The timing precludes the Trump EPA from addressing the purported issues and provides a rationale for the Biden EPA immediately to try to advance a new rule. The Biden EPA must not follow the path of the disastrous and so-called [CPP,] which was an unrealistic, illegal regulation that would have strangled West Virginia's economy," she said.

Capito, the top GOP member on the Senate environment committee, added she will have "pointed questions" for the Biden administration's "plans and their legality as it relates to regulating the power sector to reduce" GHGs, according to the Washington Examiner, and she could raise those queries in confirmation hearings for Biden EPA nominees.

Sen. John Barrasso (R-WY), the top Republican on the energy panel, told the Examiner, "Two activist judges on the court seem intent on clearing the decks for the incoming Biden administration to issue punishing new climate regulations."

The Trump EPA before leaving office told Inside EPA in a statement that it was "disappointed" the court "rejected EPA's well-supported repeal" of the CPP and said it "risks injecting more uncertainty at a time when the nation needs regulatory stability." The statement also hinted at an appeal, now off the table since Biden has been inaugurated.

'Replacement Looks Problematic'

Analysts at ClearView Energy Partners noted that Walker's dissent -- predicated on the long-standing argument put forth by opponents of climate rules that sectors regulated under section 112 cannot also be regulated under section 111(d) -- could be attractive to high court justices. While Walker was in the minority on the D.C. Circuit panel, "it is considerably less clear to us that the conservative majority at the U.S Supreme Court would disagree with him. This partial dissent represents the first articulation by any jurist on the merits" of that argument, the analysis says.

ClearView also warns that a "replacement looks problematic under current law," while acknowledging the ruling alleviates EPA from having to go through the time-consuming process of repealing or rescinding ACE. But, it notes that if EPA moves forward with another 111(d) power plant GHG rule, that is also likely to face a challenge based on Walker's dissent.

Finally, Jeff Holmstead, an industry attorney who headed EPA's air office in the George W. Bush administration, said the ruling is "probably not the last word on the matter" and that it leaves the Biden administration in "a real dilemma" of having to decide whether to invest time and effort to "develop a rule that is likely to be rejected by the Supreme Court, or will they pursue a different approach?" -- Dawn Reeves (dreeves@iwpnews.com)

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Inside EPA: Biden EPA Grapples With Long-Running Fights Over Regional Haze Policy
https://insideepa.com/daily-news/biden-epa-grapples-long-running-fights-over-regional-haze-policy
January 25, 2021
The Biden EPA will have to grapple with how to resolve long-running disputes over Trump-era policies on reducing emissions that cause regional haze, including its response to a slew of lawsuits filed by environmentalists challenging several states' agency-approved haze reductions plans as falling short of the haze program's requirements.

The regional haze program requires states to write state implementation plans (SIPs) including strategies to restore visibility to natural conditions in "Class I" national parks and wilderness areas by 2064. EPA must approve or reject SIPs, and during the Obama administration the agency faulted a number of state plans for being insufficiently stringent and instead imposed tougher EPA-written federal implementation plans (FIPs) on those states.

But the Trump EPA reversed this policy, converting FIPs into SIPs and in a number of instances accepting state-offered alternatives to stringent, source-specific emissions controls that would otherwise be required under the haze program's best available retrofit technology (BART) mandate.

Environmentalists have challenged state plans they say are too weak in several states, and recently filed fresh litigation against a Utah SIP. In their Jan. 19 suit filed in the U.S. Court of Appeals for the 10th Circuit, Heal Utah, Sierra Club, National Parks Conservation Association (NPCA) and Utah Physicians for a Health Environment say that a Trump EPA-approved plan for the state is inadequate to control pollution from utility PacificCorp's Hunter and Huntington coal-fired power plants in Emery County, UT.

The groups, represented by law firm Earthjustice, also intend to petition the Biden EPA for administrative review of the October 2020 SIP approval, they say. The Trump EPA decision reversed a 2016 Obama EPA finding that would have required source-specific controls to reduce sulfur dioxide (SO2) and nitrogen oxides.

"EPA reversed itself and accepted a revised plan that gave Utah credit for the earlier retirement of a different, 60-year-old coal plant and other prior emission reductions improvements, negating -- on paper -- the need for upgrades at Hunter and Huntington," the groups say in a Jan. 19 press release.

"EPA's about-face approval of Utah's 'alternative' to BART controls does nothing to reduce harmful pollution from the Hunter and Huntington plants," said Earthjustice attorney Jenny Harbine. "We're asking EPA to restore requirements for PacifiCorp to do its part to reduce Utah's air pollution problems, and we are prepared to argue our case in court if EPA does not properly address these two massively polluting coal plants."

"These rollbacks mean preventable air pollution will now continue to plague our state and make its way into national parks, affecting visitors and obscuring the views of Utah's famous landscapes." Said Cory MacNulty, southwest associate director for the NPCA.

Haze Litigation

In a separate suit, environmentalists are fighting the Trump EPA's approval of a Texas-only SO2 emissions trading program that serves to satisfy haze program requirements in the state, in place of case-specific BART. Texas and

EPA say the case belongs in the 5th Circuit, because it relates to a purely local matter, and not in the D.C. Circuit, which hears cases on matters with "national applicability" or that have "nationwide scope or effect."

In a Jan. 19 filing in the D.C. Circuit case NPCA, et al., v. EPA, et al., EPA rejects environmentalists' motion to consolidate cases challenging both the Texas SO2 trading program and a separate rule finding that Texas' participation in the Cross-State Air Pollution Rule (CSAPR) interstate air trading program satisfies some haze program requirements because it is "better than BART." EPA first approved the Texas-only SO2 trading program in 2017, then re-affirmed its approval, subject to certain revisions, in a 2020 rule.

The 2017 and 2020 rules approving the Texas-only SO2 program "apply in only a single state, Texas: They finalize EPA's action on a regional-haze implementation plan only for Texas. They promulgate an intrastate trading program that operates only in Texas. And they address technology requirements for emission sources only in Texas. The two Texas rules are thus locally, not nationally, applicable," EPA says.

"Because the Act directs petitions for review of the Texas rules to the Fifth Circuit, this Court should either dismiss the petitions or transfer them there," the agency adds.

In another Jan. 19 filing, Texas utilities intervening on EPA's behalf agree. "The actions at issue here -- on their face and in practical effect -- regulate only Texas power plants and establish a single-state emissions trading program. That single-state trading program does not intersect with the separate national trading program at issue" in separate litigation over the CSAPR "better than BART" finding, the utilities say.

"Indeed, the two trading programs were established under entirely different provisions of the Clean Air Act -- one involving visibility (regional haze) and one involving interstate contribution to downwind nonattainment of national air quality standards," they say. They urge the court to deny consolidation of cases involving the Texas haze plan and the CSAPR "better than BART" finding, and to deny environmentalists' request to confirm venue is correct in the D.C. Circuit.

Both the Utah haze suit and the Texas haze proceedings will likely be placed into abeyance by the Biden EPA pending a review, under the terms of a Jan. 21 letter from the EPA General Counsel's office to the Department of Justice, which seeks to pause all lawsuits challenging EPA regulations issued between 2017 and 2021. The move is standard practice for incoming new presidential administrations. It is unclear whether, following review, the Biden EPA will continue to defend the Utah and Texas cases. -- Stuart Parker (sparker@ipwnews.com)

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Bloomberg: Clean air issues take a top spot in Biden's agency priorities
https://phys.org/news/2021-01-air-issues-biden-agency-priorities.html
by Jennifer Hijazi, Bloomberg

Credit: CC0 Public Domain
President Joe Biden teed up a slew of clean air and carbon issues as top environmental priorities for his administration in a new executive order signed this week.

Biden on Jan. 21 directed agencies to examine dozens of Trump-era rules, including carbon emissions, clean air rollbacks, and Clean Air Act rules on science and costs.

Any bold standards Biden has in mind to stem emissions from industry through the Clean Air Act will almost certainly get challenged in court.

The unending cycle of rulemakings followed by years-long lawsuits is a signal that the Clean Air Act needs to be amended to give the executive more direct authority, Schiff Hardin LLP environmental partner Jane Montgomery said.

"Hopefully, with Biden's experience in Congress, he can recognize that lawsuits are a result of bad law," she said.

But Biden may have to choose between innovative actions or traditional "nuts and bolts" regulation under the statute in order to avoid defeat in a 6-3 conservative Supreme Court skeptical of broad agency powers, Loyola University New Orleans Law Professor Robert Verchick said.

"It's going to be a lot harder to do more flexible, ambitious and innovative programs under these older laws because the court, I don't think, is going to have the appetite for it," he said.

Here are the most closely watched air issues on Biden's to-do list:

Power Plant Carbon Rules

The U.S Court of Appeals for the District of Columbia Circuit handed Biden a huge win Jan. 19 when it struck down President Donald Trump's carbon rule for coal-fired power plants. The new White House now has a fresh start to craft greenhouse gas standards for existing sources.

The D.C. Circuit opinion affirmed Obama-era justifications for regulating power plant carbon under the Clean Air Act, but Hana Vizcarra, a staff attorney at Harvard Law School's Environmental and Energy Program, isn't expecting a Clean Power Plan 2.0.

"Even the ambitions of the Clean Power Plan were limited compared to what the ambitions of this administration are," she said.

Companion performance standards for new plants were released by the outgoing administration earlier this month. Though the standards were left unchanged from 2015 levels, the Trump administration added a new threshold that sources must meet in order to be regulated under the rule.

States and groups launched legal challenges against the rulemaking last week, claiming the new threshold was added illegally without proper public input.

Clean Air Act Analysis

Biden asked the EPA to swiftly reexamine Trump rules on scientific considerations and cost-benefit analyses under the Clean Air Act.

Both rules put limits on how scientific research and cost and benefits are weighed under the statute, which critics worry could further hem Biden's ability to craft new air regulations.

The new cost-benefit rule finalized late last year would require agencies to analyze a rule's primary targeted benefits separately from co-benefits like reducing greenhouse gas emissions. The newly finalized science rule puts a limit on how much weight agencies can give nonpublic scientific data in rulemaking analysis.

'Once In, Always In'

Also on the chopping block is a rule that scraps enforcement of a decades-old policy locking in toxic air pollution controls for large facilities.

The Clean Air Act requires large refineries and other facilities to always be regulated under the maximum toxic air standards if they qualify as a major source. Trump's EPA crafted a rule that would let those sources off the hook if they managed to lower their emissions.

National Ambient Air Quality Standards

Environmentalists are calling on Biden to boost national ambient air quality standards, also called NAAQS, after the previous administration's refusal to beef up protections against dangerous levels of soot and smog pollution.

Groups say that stronger NAAQS and the "once in always in" rule are particularly important in stemming the disproportionate air pollution burden carried by communities on the fence line of industrial facilities—often comprised predominately people of color.

Vehicle Emissions

Still enmeshed in lengthy legal battles, Trump administration softened rules on tailpipe greenhouse gas emissions are also on Biden's radar.

The two-part Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule scrapped California's historic waiver to set its own vehicle emission standards, and pared back fuel efficiency standards for car manufacturers from 5% to 1.5%.

Biden's order says agencies "should consider the views of representatives from labor unions, States, and industry" when evaluating the rule.

Methane

Finally, the new EPA is set to examine emissions regulations for the oil and gas sector on methane, a highly potent greenhouse gas.

The Trump administration last year scrapped 2016 methane leak monitoring requirements. The move was celebrated by smaller producers, though some large oil and gas companies in compliance with the Obama-era requirements criticized the rollback.

Judges refused to put the rule on ice after environmentalists sued to freeze implementation of the rule. Legal challenges currently pending on Trump's methane, tailpipe, and other emissions rules could be declared moot when Biden starts new rulemaking.

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Beef Magazine: Biden administration: Will farmers see another WOTUS redo?
https://www.beefmagazine.com/regulatory/biden-administration-will-farmers-see-another-wotus-redo
WOTUS and other regulatory rollbacks back on the radar of incoming Biden administration.
Jacqui Fatka | Jan 25, 2021

This is the fourth installment of a special multi-part series offering what we might see under the incoming President Joe Biden administration.

One of the 17 executive orders signed by President Joe Biden on his first day of office will require a review of certain environmental and health regulations, including the "Waters of the U.S." rule, or WOTUS, and a pesticide application exclusion zone rule.

In 2015, the Obama administration proposed WOTUS and it quickly came under fire from agricultural groups and others. The Trump administration's several year process of withdrawing the Obama WOTUS rule and re-introducing its version – the Navigable Waters Protection Rule - was welcomed by agricultural groups. But now the question remains whether it will stick.

American Farm Bureau Federation President Zippy Duvall says he was proud of the final product completed in 2020. "The Navigable Waters Protection Rule provided much needed clarity and allows farmers to understand water regulations without having to hire teams of consultants and lawyers," Duvall says.

Over the past four decades, all three branches of government have struggled with how to interpret the meaning of WOTUS, which has resulted in extensive litigation and confusion on the county level. And an April 2020 Supreme Court ruling also looks to cause additional uncertainties over which navigable waters are within federal jurisdiction and require additional permitting.

Don Parrish, AFBF senior director of regulatory relations, says he sees no legislative path on defining what constitutes a navigable water, so he expects Biden to take action administratively. Parrish expects this administration would want to expand the definition of what constitutes a navigable water, but maybe not as far as the 2015 rule tried.

"The big wild card is going to be what courts do on the Clean Water Act," Parrish says. Currently, 14 cases are challenging Trump's Navigable Waters Protection Rule. He expects the Biden administration to pause defending those cases.

The focus then turns on whether a district court takes down the rule, and if yes, will it be a nationwide ruling? Will the repeal action Trump take of the 2015 regulation create a backstop and prevent courts from reverting to the very expansive 2015 definition of a navigable water?

"We could see a patchwork for regulations very similar to just before the Trump administration finalized their latest rule," Parrish adds.

Meanwhile, the Biden administration will have to decide how it wants to remedy finding that sweet spot. Parrish says they've signaled two key areas of the rule needing changed: ephemeral waters and increasing the amount of waters covered under adjacent wetlands.

"It's going to take time for this administration to put this together," Parrish says.

Ethan Lane, vice president of government affairs at the National Cattlemen's Beef Association, says at the end of the day the rule will find its way back to the Supreme Court as each administration attempts to move that line back and forth between a more broad interpretation and more narrow of what constitutes a navigable water. When it does end up back at the highest court, he sees "more favorable judges looking at that rule."

Additional environmental regulations

"As the new administration considers environmental regulations, we stand ready to work with them. We will be guided by our grassroot policies and continue to be a strong voice – from the grassroots up – for rules that are fair to farmers," Duvall says.

Lane says Biden's key advisers and cabinet picks show his desire to choose those people who understand the system and regulatory process and don't require a learning curve. "This is an interesting change from others who understand how the economy works, but weren't as versed in the regulatory structure," he says.

Lane says NCBA plans to defend critical regulatory victories seen under the Trump administration including updates to the National Environmental Policy Act and the Endangered Species Act including the delisting of the gray wolf. He expects the Biden administration to stop defending in federal court actions challenged by environmental groups and championed by the Trump administration.

Lane says he's been encouraged that initial reports from the Biden transition team did not support a broad brush of eliminating all the regulatory wins from the Trump administration through early executive order actions by the Biden team. He does expect some new rulemakings to allow for continued comments.

Related: Biden takes quick action on climate

However, one of his first executive orders calls for a refocus on environmental justice outcomes. Biden points to the Trump rewrite of NEPA rules. The Biden transition team was also very thorough in detailing rules that could need to be revisited.

When President Donald Trump came into office, he made a bold promise through an executive order to require the elimination of two regulations for any new one proposed. During his tenure he actually eliminated four regulations for every one new one proposed.

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Politico: Pallone vows 'accelerating' push for ambitious climate action
https://subscriber.politicopro.com/search?q=Environmental%20Protection%20Agency
BY ANTHONY ADRAGNA

|01/25/2021 12:30 PM EST
Frank Pallone
Rep. Frank Pallone speaks during a news conference.Toya Sarno Jordan/Getty Images

WASHINGTON — House Energy and Commerce Chair Frank Pallone said on Monday that the Democratic-led Congress intends to include major climate change provisions as part of an infrastructure package in the coming months.

"Our committee and myself are really accelerating our efforts to address climate change," Pallone (D-N.J.) told a virtual roundtable in New Jersey. "Within another month or so there'll be a major infrastructure initiative as part of an effort to bring it back and revise the economy, and that'll have a lot of the things that were in" last year's House-passed infrastructure bill H.R. 2 (116).

Word of caution: Pallone said his committee's sweeping climate change legislative framework from last Congress — called the CLEAN Future Act — would serve as the "blueprint" for additional action this year, though he cautioned the scope of any legislation could be more limited if Democrats decided to advance their priorities through budget reconciliation, which allows legislation to advance through thee Senate with a simple majority.

"We're going to try to be ambitious, but I got to be honest and say that we're still dealing with a Senate that's 50-50," he said.

He said he expected Biden to pursue dual tracks for legislation that could include climate change-related provisions.

"Biden's probably going to work with us and announce an overall general authorization package, similar to the CLEAN Future Act and it'll have things in it that don't come under our jurisdiction, as well," Pallone said. "But at the same time we would try to move the money part and the tax part under either a budget reconciliation or some other vehicle ... It's going to probably be all at the same time."

Budget reconciliation warning: The New Jersey Democrat expressed doubt a clean energy standard that mandates the share of energy that is derived from different energy sources could be structured in a way to be included in legislation considered under reconciliation. That's been a key source of division among Democratic circles.

"If you have a clean electricity standard that mandates that you move towards [energy distributions] by 2035 or 2050, that's authorization and that's a lot harder to justify and probably wouldn't survive under the so called Byrd rule," Pallone said, referring to the arcane rule that limits what provisions can be included as part of budget reconciliation.

Pallone said he was not explicitly ruling out carbon pricing or cap and trade provisions in the discussions, though he doubted those ideas could achieve political consensus. He noted the committee's legislation last year was silent on those policies.

"It is a political choice," Pallone said. "We're not opposed to it. It's just that we want to see what we can get a consensus on."

Victory lap on end-of-year bill: Pallone hailed climate-friendly provisions included in a massive end-of-year spending package, H.R. 133 (116), as a "downpayment" on additional climate action this Congress, singling out a compromise to phase down the use of hydrofluorocarbons as especially significant.

He said Senate Republicans blocked provisions on environmental justice, H.R. 5986 (116), boosting the resiliency of shorelines to the impacts of climate change and restricting the ability of pipeline companies to use eminent domain during construction, but vowed to push again for them this Congress.

"With the key departments of EPA and Interior being led by people who are themselves environmental justice advocates, we can kind of address this on two fronts: one through agency action and executive action, but at the same time trying to get these legislative initiatives passed," Pallone said, referring to environmental justice legislation specifically.

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WSJ: Biden's Executive Orders Signal Collision Course With GOP
https://www.wsj.com/articles/bidens-early-policy-moves-signal-collision-course-with-gop-11611346734?mod=searchresults_pos1&page=1
President has taken more than two dozen executive actions, prompting cheers from Democrats and frustration from Republicans

By Alex Leary, Kate Davidson and Andrew Restuccia
Updated Jan. 22, 2021 6:41 pm ET

WASHINGTON—President Biden signed an executive order Friday designed to swiftly deliver more relief to low-income families and unemployed workers, capping a series of actions taken in his first three days in office aimed at reversing Trump administration policies and enacting liberal priorities.

The orders, more than two dozen, have focused on such areas as the environment, workers and unions, as well as an increased government role in the economy. They come as the White House seeks to persuade skeptical Republican senators to back its $1.9 trillion coronavirus legislation.

Some GOP lawmakers say the initiatives undermine Mr. Biden's push for bipartisan deal making and national unity, a major theme of his inaugural address. At the same time, while his early policy efforts have been broadly cheered by Democrats, some progressives are urging him to go further, reflecting the president's challenge of balancing pressures from both parties.

President Biden on Friday signed two executive orders aimed at boosting pandemic aid, including increasing food assistance and enhancing worker protections. Photo: Ken Cedeno/Press Pool
Mr. Biden's order Friday directed agencies across the government to take immediate steps to enhance federal benefits, such as expanding food assistance, improving distribution of stimulus checks and clarifying that workers may refuse jobs with unsafe working conditions and still qualify for unemployment benefits.

"This cannot be who we are as a country," the president said as he signed the orders in the White House's State Dining Room. "We cannot—will not—let people go hungry." Touting the coronavirus relief plan he is pressing

Congress to approve, he cited what he called a once-in-a-century public-health crisis that has hurt American families and said the coronavirus death toll could rise to more than 600,000.

"The bottom line is this: We're in a national emergency," he said. "We need to act like we're in a national emergency."

Since taking office Wednesday, Mr. Biden has moved to reverse some of former President Donald Trump's highest-profile policy initiatives by overturning a travel ban on several majority-Muslim and other countries, revoking a permit for the Keystone XL oil pipeline and rejoining the Paris climate accord. Those orders also lay the groundwork for what Mr. Biden says will be his administration's focus: boosting economic growth, dealing with the pandemic, and increasing government spending on programs designed to assist Americans hard hit by the pandemic-induced recession.

"We must use every tool in our toolbox, including executive orders tailor-made to quickly undo some of the most egregious policies the previous administration implemented, to address the multiple crises we face," Senate Majority Leader Chuck Schumer (D., N.Y.) said Wednesday in support of Mr. Biden's thrust.

Senate Minority Leader Mitch McConnell (R., Ky.) was among those who accused Mr. Biden of contradicting his rhetoric on bipartisanship by catering to a progressive agenda with those actions.

"There is plenty of time for President Biden to remember that he does not owe his election to the far left," he said in a speech Thursday.

Other Republicans echoed Mr. McConnell. "President Biden is talking like a centrist…but he's governing like someone from the far left," Sen. Marco Rubio (R., Fla.), a potential 2024 presidential candidate, said Friday. "He has issued more executive fiats than anyone in such a short period of time—more than Obama, more than Trump."

By Friday, Mr. Biden had issued at least 29 executive orders and actions. In contrast, then-President Barack Obama issued five and Mr. Trump issued one in their first three days in office.

Every modern president has relied heavily on executive powers to implement their agendas. Mr. Trump, for example, used executive orders to impose wide-ranging immigration restrictions and speed up the environmental review of infrastructure projects. White House officials said Mr. Biden's calls for unity weren't meant to suggest he would set aside his policy priorities to please Republicans.

Some of Mr. Biden's actions, such as stopping construction of the border wall, ending a travel ban from several majority-Muslim and African countries and rejoining the World Health Organization, were in reaction to Trump administration policies, White House officials said, rather than representing longstanding progressive aims. But other measures—such as addressing racial inequality and boosting worker protections—are long-sought Democratic priorities.

Mr. Biden, who served nearly four decades in the Senate, has been counting on his experience and relationships with Republicans, including Mr. McConnell, to move an agenda he says will benefit all Americans.

Several GOP lawmakers say his $1.9 trillion Covid relief package is too costly and contains provisions that aren't directly related to the pandemic, such as a call for raising the hourly minimum wage to $15.

"I suspect the whole package is a nonstarter, but it's got plenty of starters in it," Sen. Roy Blunt (R., Mo.) said Thursday. "We're ready to look at what it takes to move forward, as effectively and quickly as we can, on vaccine distribution" and other issues, he said.

Mr. Biden's proposed immigration overhaul was similarly met with immediate GOP opposition, partly because it includes a pathway to citizenship for millions of undocumented residents. The issue has confounded the last three presidents, and Biden's measure stands little chance of passage in a closely divided Congress.

Some Democrats want Mr. Biden to use the party's newfound advantage to push the Covid-19 aid package through using a budget maneuver called reconciliation, which allows legislation tied to the budget to pass the Senate with a simple majority rather than the higher threshold of 60 votes required to advance most bills. The White House signaled Wednesday that it is open to such a move—a sign, Republicans are expected to say, that the president's calls for bipartisanship were hollow.

"His clear preference is to move forward with a bipartisan bill," White House press secretary Jen Psaki said. "There's no question about it. But we're also not going to take tools off the table for how the House and Senate can get this done." The following day, she emphasized the preference for a bipartisan agreement and said many of Mr. Biden's actions have broad appeal.

"Is unemployment insurance only an issue that Democrats in the country want? Do only Democrats want their kids to go back to schools? Do only Democrats want vaccines to be distributed across the country? We feel that that package—he feels that package is designed for bipartisan support," Ms. Psaki said of Mr. Biden's coronavirus-relief proposal.

On the left, outside groups have raised concerns about some of Mr. Biden's picks for key jobs, pointing to nominees' tied to Wall Street and industry. When Mr. Biden moved to extend a pause on student-loan payments, liberals said he should go further. Tweeted Rep. Alexandria Ocasio-Cortez (D., N.Y.): "OK now let's cancel them."

Others point out that the president is simply implementing the promises he made during the campaign, and that Mr. Biden's critics should be patient.

"Nothing he has done so far has been a surprise," said Mo Elleithee, executive director of Georgetown University's Institute of Politics and Public Service and a former top Democratic National Committee official, adding that the Covid-19 emergency is ideal for bipartisanship. "I hear a lot of members out there who a few weeks ago refused to even acknowledge his election now attacking him for not being unifying," he said.

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Medill: Biden administration looks set to target 'forever chemicals,' as 3M warns about 'onerous regulation'
https://www.marketwatch.com/story/biden-administration-looks-set-to-target-forever-chemicals-as-3m-warns-about-onerous-regulation-11611604742
Published: Jan. 25, 2021 at 2:59 p.m. ET
By Dalia Faheid

WASHINGTON — President Joe Biden's administration looks poised to crack down on a group of "forever chemicals" that have been linked to a range of health problems, a move that could put companies like 3M and DuPont on the hook for billions of dollars in cleanup costs.

Per- and polyfluoroalkyl substances — consisting of thousands of synthetic chemicals used since the 1940s in food packaging, household cleaners, cookware and other everyday products — have been linked to cancer, low birth weights, immunological effects, thyroid hormone disruption and increased cholesterol levels.

About 862,000 Americans drink PFAS-contaminated water, according to the Environmental Working Group, an environmental research organization. A recent Harvard University study found that exposure to these chemicals can increase the severity of COVID-19 in people who have contracted it.

Especially vulnerable are children whose developmental process might be affected, as well as communities of color, where residents often live near PFAS-contaminated facilities, according to environmentalists.

"There's a definite disproportionate and disparate impact of PFAS exposure in some communities," said Eve Gartner, managing attorney for the toxic exposure and health program at Earthjustice, a nonprofit that litigates environmental issues.

Biden has pledged to designate PFAS as hazardous substances, enforce a limit for them in drinking water, incentivize companies to use alternatives and accelerate research into their toxicity.

Though former President Donald Trump's administration made similar promises in February 2019 under a "PFAS Action Plan," it wasn't until the last hours of his presidency that the Environmental Protection Agency initiated a legal process that eventually could regulate PFAS in drinking water nationally. The action came after the EPA weakened public health guidance on PFAS, making it more difficult for the Biden administration to impose regulations. A year ago, the Trump administration also opposed a House bill that would designate PFAS as hazardous substances.

See: House passes bill that could put 3M, other chemicals companies 'on the hook for billions of dollars in cleanup fees'

3M MMM, 0.28% said it would work with the Biden administration to improve water quality for all Americans based on scientific processes and collaboration with stakeholders. But the company, which would be required along with others producing, transporting or using PFAS to pay billions for cleanup under Biden's proposed regulations, disagrees with the new administration about the toxicity of PFAS chemicals.

"While the science of PFAS continues to evolve, the weight of scientific evidence does not show (PFAS) causes harm in people at current or past levels found in the environment," a 3M spokesman said in an interview. "We are prepared to provide our expertise and scientific insights to help the administration achieve positive outcomes for Americans, including through the remediation of PFAS where appropriate. Onerous regulation, political debates and biased, agenda-driven studies will only slow progress."

The American Chemistry Council, which represents companies that produce different forms of PFAS, agrees. The ACC, cautioning against labeling all PFAS chemicals as toxic, said they are vital for Americans' everyday lives because of their use in everything from communication devices and aircraft to alternative energy and medical devices, COVID-19 tests and medical garments. "Each individual chemistry has its own unique properties and uses, as well as environmental and health profiles," the ACC said.

DuPont DD, 0.10%, which recently with other companies settled a $4 billion PFAS lawsuit, said it supports the EPA using its authority to set science-based standards like the 2019 PFAS Action Plan, which would evaluate whether PFAS should be more broadly regulated. That plan could designate PFAS as hazardous substances, develop clean-up recommendations and monitor drinking water for PFAS.

"We believe science-based, federal standards will provide clear, uniform guidance for all," a DuPont spokesman said.

Environmentalists view the Biden administration's proposed regulations as a positive step forward that should have started under the Trump administration.

But Earthjustice's Gartner expects the process for imposing regulations will take years unless the EPA uses its authority to regulate PFAS on an expedited basis. The 2019 PFAS Action Plan, for instance, was the result of a regulatory process started in 2011.

"The time is long overdue for EPA to start taking important forward steps to address this," said Erik Olson, senior strategic director of health and food at the Natural Resources Defense Council, an advocacy group.

Olson supports Biden's pick for head of the EPA, Michael Regan, because Regan has extensive experience managing the PFAS regulatory process from his time as head of the Department of Environmental Quality in North Carolina, a state that's heavily impacted by PFAS contamination.

Regan was a key player in holding the polluters accountable and trying to ensure that communities were getting clean drinking water, Gartner said.

Aside from cleaning up PFAS contamination sites, Olson and Gartner said it's imperative to investigate the sources of the substances and set limits to prevent discharge before it happens, cutting down on clean-up costs.

"We really need to tackle this whole class of chemicals together, because otherwise we'll be on a toxic treadmill, continually trying to address one chemical after another," Olson said, proposing that the EPA create a test for the full array of PFAS chemicals.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/24/2021 1:07:04 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: Tinker RFC 21001 Response Feb 22 2021 (002).docx SIGNED.docx
Attachments: Tinker RFC 21001 Response Feb 22 2021 (002).docx SIGNED.docx

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

February 22, 2021

OFFICE OF
AIR AND RADIATION

Mr. Frank Tinker, Ph.D.
P.O. Box 37162
Tucson, AZ 85740

Dear Dr Tinker:

This letter is in response to your Request for Correction (RFC), received by the U.S. Environmental Protection Agency on October 20, 2020, which was assigned RFC# 21001 for tracking purposes. In the RFC letter, you contend that the Information Quality Act's (IQA) general definition of "objectivity" has not been met, specifically "the accuracy of the information itself, in reference to the terms "Greenhouse Effect", "Greenhouse Gas", and related concepts." You request that "correction be made to all documents, electronic or paper based, published by the Agency, that includes the terms "Greenhouse Effect", "Greenhouse Gas", or any related concept. Such correction should address the fact that the Effect has been disproven or the document in question should be removed from public view and replaced with an accurate analysis of Earth's surface temperature." The RFC includes a list of various agency documents containing those terms.

You base your RFC on an assertion that the superposition principle has been misapplied. The EPA has reviewed your stated position and evidence and concludes that the EPA's use of the term(s) in question are fully consistent with EPA's Information Quality Guidelines.

The EPA denies your request for correction for three primary reasons: 1) your submission is inconsistent with the consensus of the scientific community as represented by the major scientific assessments; 2) your hypothesis has not been peer reviewed or otherwise evaluated by independent scientists; and 3) similar to previous claims that the greenhouse effect is somehow inconsistent with thermodynamic laws, there are flaws in your approach, in particular with your misapplication of the "superposition principle" within the Stefan-Boltzmann equation.

On the first issue, EPA gives careful consideration to all the scientific and technical information available. On the topic of climate change, EPA relies primarily on the major assessments of the US Global Change Research Program (USGCRP), the Intergovernmental Panel on Climate Change (IPCC), and the National Academy of Sciences (NAS). The rationale behind this reliance is described in the 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Section 202(a) of the Clean Air Act (Docket ID No. EPA-HQ-OAR-2009-0171), Section III.A, "The Science on Which the Decisions Are Based." These assessments represent the current state of the science on climate change, comprehensively evaluating the findings of thousands of individual studies in order to convey the consensus conclusions as

demonstrated by the body of scientific literature. These assessments have gone through a rigorous and exacting standard of peer review by the expert community, as well as rigorous levels of U.S. Government review and acceptance. It is EPA's view that the scientific assessments of the IPCC, USGRCP, and the NAS represent the best reference materials for determining the general state of knowledge on the scientific and technical issues before the agency. The IPCC, USGCRP, and NAS assessments have all presented clear, convincing analysis of the Greenhouse Effect, contrary to the claims in your RFC.

On the second issue, it is important to note that the claims in your RFC have not been peer-reviewed in a scientific journal or otherwise evaluated by any independent scientists. Independent peer review is an important first step in presenting new scientific conclusions. Pursuant to the EPA's Information Quality Guidelines, EPA recognizes that if data and analytic results are subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. The Office of Management and Budget's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies,* 67 Fed. Reg. 8452 (Feb. 22, 2002) states that the review process used by scientific journals is an example of the type of independent review contemplated.

Finally, there are specific flaws in your claims. Most importantly, the superposition principle is designed to be used only for linear problems. A physics textbook, Principles of Biophotonics (Popescu, 2018, [HYPERLINK "https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fiopscience.iop.org%2Fbook%2F978-0-7503-1641-5%2Fchapter%2Fbk978-0-7503-1641-5ch1&data=04%7C01%7CSarofim.Marcus%40epa.gov%7Ca5a8c26110a84e244dce08d8875bbb04%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637408175329940853%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=bZHDG8Jvd5WO56yPe87HL3NaVcGTWplEhHrRJBNIH5c%3D&reserved=0"]) defines this: "This principle states that, for linear systems, the output of a sum of inputs equals the sum of the respective outputs." The Stefan-Boltzmann equation is not linear: it states that the energy radiated by a blackbody scales with temperature to the fourth power ($F = \text{sigma}*T^4$). Therefore, contrary to your claim, the superposition principle does not apply for the Stefan-Boltzmann equation.

The use of the Stefan-Boltzmann equation can be demonstrated by analyzing the example provided in the RFC. As the RFC notes, the Earth receives about 240 W/m^2 of solar radiation averaged over the entire surface (after accounting for albedo). Using the Stefan-Boltzmann equation, 240 W/m^2 of radiation applied to a blackbody in a vacuum does yield a temperature of 255K, as the RFC notes. Similarly, we do not disagree that a radiative forcing of 0.065 W/m^2 applied to a blackbody in a vacuum would yield a temperature of 33K. However, when considering a system warmed by both a forcing of 0.065 W/m^2 and a forcing of 240 W/m^2, the forcings need to be added together before calculating the temperature. The first law of thermodynamics is conservation of energy: that means that the energy that goes into the system has to equal the energy that goes out of the system. Using the method presented in the RFC (namely, adding together the calculated temperatures), the two forcings together would warm the blackbody to 288K. However, the same Stefan-Boltzmann equation can also be used to calculate the radiation emitted by a

blackbody given its temperature, and a blackbody at 288K would radiate a total of 390 W/m^2. 390 W/m^2 is greater than the total of 240.065 W/m^2 that was absorbed by the blackbody: this result contradicts the first law of thermodynamics, which requires that the energy into a system equal the energy emitted by that system. The approach in the RFC is that every additional energy input

would further raise Earth's temperature by substantial quantities. For example, the heat produced by fossil fuel combustion is about 0.028 W/m^2 globally (Flanner et al., 2009[1]): by the method in the RFC, this would further raise Earth's temperature by another 27K.

It is also worthwhile to note that the blackbody argument presented in your RFC is an educational analogy: climate models explicitly calculate energy flows throughout the atmosphere and do not assume the entire planet is a single blackbody. Some of these climate models do explicitly include the contribution of geothermal warming: while the geothermal warming does not make a large direct contribution to surface temperatures, it can matter for aspects of deep ocean circulation (see, e.g., Downes et al. 2016: [HYPERLINK "https://journals.ametsoc.org/jcli/article/29/16/5689/107089/The-Transient-Response-of-Southern-Ocean"]).

The EPA has previously responded to similar arguments that the Greenhouse Gas effect does not exist in the Response to Comments Volume 3 for the 2009 Greenhouse Gas Endangerment Finding, 3-42 through 3-51 ([HYPERLINK "https://www.epa.gov/sites/production/files/2017-07/documents/rtc_vol_3.pdf"]). Several of these arguments similarly tried to make thermodynamic arguments that the greenhouse gas effect did not exist, and some similarly made reference to idealized blackbody temperature calculations. These arguments were addressed previously.

In conclusion, the EPA's use of the terms "Greenhouse Effect", "Greenhouse Gas" and related topics and products are consistent with EPA's Information Quality Guidelines.

Your Right to Appeal

If you are dissatisfied with this response, you may submit a Request for Reconsideration (RFR). EPA requests that any such RFR be submitted within 90 days of the date of EPA's response. If you choose to submit a RFR, please send a written request to the EPA Information Quality Guidelines Processing Staff via mail (Enterprise Quality Management Division, Mail Code 2821T, USEPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460); or electronic mail ([HYPERLINK "mailto:quality@epa.gov"]). If you submit an RFR, please reference the IQG identifier assigned to this original Request for Correction (RFC # 21001). Additional information about how to submit an RFR is listed on the EPA Information Quality Guidelines website at [HYPERLINK "http://epa.gov/quality/informationguidelines/index.html"].

[1] https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2008gl036465

Sincerely,

Joseph Goffman
Acting Assistant Administrator

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 7:37:25 PM
To: Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: FW: FOR YOUR REVIEW: OAP comments on Cardin proposed bill to revise EISA- Energy Star
Attachments: ELT21037_EPA OAP Comments 02-26-2021.docx

If we have time we should discuss briefly at the OAP Weekly. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Monday, March 1, 2021 1:41 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Subject: FOR YOUR REVIEW: OAP comments on Cardin proposed bill to revise EISA- Energy Star

Ex. 5 Deliberative Process (DP)

Thanks,

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Clarke, Deirdre <clarke.deirdre@epa.gov>
Sent: Friday, February 26, 2021 3:33 PM
To: Haman, Patricia <Haman.Patricia@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>; Moss, Jacob <Moss.Jacob@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Subject: CPPD comments on Cardin proposed bill to revise EISA- Energy Star

Pat – these comments are now approved through Chris.

Ex. 5 Deliberative Process (DP)

Thanks, Deirdre

From: Moss, Jacob <Moss.Jacob@epa.gov>
Sent: Friday, February 26, 2021 10:04 AM
To: Haman, Patricia <Haman.Patricia@epa.gov>
Cc: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Clarke, Deirdre <clarke.deirdre@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>; Lupinacci, Jean <Lupinacci.Jean@epa.gov>; Hatcher, Caterina <Hatcher.Caterina@epa.gov>
Subject: RE: Possible to make EPA aware of Cardin proposed bill to revise EISA- Energy Star ?

Ex. 5 Deliberative Process (DP)

Jacob

From: Haman, Patricia <Haman.Patricia@epa.gov>
Sent: Monday, February 08, 2021 2:06 PM
To: Moss, Jacob <Moss.Jacob@epa.gov>
Cc: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Clarke, Deirdre <clarke.deirdre@epa.gov>; Snyder, Carolyn <Snyder.Carolyn@epa.gov>; Lupinacci, Jean <Lupinacci.Jean@epa.gov>; Hatcher, Caterina <Hatcher.Caterina@epa.gov>
Subject: RE: Possible to make EPA aware of Cardin proposed bill to revise EISA- Energy Star ?

Ex. 5 Deliberative Process (DP)

Thanks, Pat

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/16/2021 12:44:22 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: Scientist letter & request for meeting
Attachments: Scientist Letter to Biden, von der Leyen, Michel, Suga & Moon Re. Forest Biomass (February 11, 2021).pdf

Let's get this on the calendar pretty soon. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: timothy searchinger <tsearchi@princeton.edu>
Sent: Sunday, February 14, 2021 10:10 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Peter Raven <Peter.Raven@mobot.org>
Subject: Scientist letter & request for meeting

Greetings Joe,

Strong congratulations on your new position.

Wanted to get to you this letter sent from 500+scentists to President Biden and other world leaders last Thursday.

On behalf Peter Raven and other initiating scientists, we ask for the opportunity to discuss some of these issues with you. I know you understand the main issues well. We think it might be useful for you to get a briefing on the status of expansion of wood for energy in Europe and Asia, where it is accelerating fast.

There has also been some temptation at EPA to use economic models to evaluate the greenhouse gas consequences of woody biomass. Among the signatories are many distinguished economists. We would present to you reasons not to do so, including some that go to the merits of the models and others that go to the broader significance of what any economic model is actually trying to do. We would also present evidence to you that increasing wood demand is not likely to lead to expansion of forest area, which is precisely why recycling is a good and not a bad idea.

Very best,

Tim

--
Timothy D. Searchinger
Senior Research Scholar
Woodrow Wilson School of Public and International Affairs, Princeton University
Senior Fellow, World Resources Institute
tsearchinger@gmail.com

tsearchi@princeton.edu
(202) 465-2074 (mobile - best choice)
website: www.princeton.edu/~tsearchi

Letter Regarding Use of Forests for Bioenergy

(February 11, 2021)

To President Biden, President von der Leyen, President Michel, Prime Minister Suga, and President Moon,

The undersigned scientists and economists commend each of you for the ambitious goals you have announced for the United States, the European Union, Japan and South Korea to achieve carbon neutrality by 2050. Forest preservation and restoration should be key tools for achieving this goal and simultaneously helping to address our global biodiversity crisis. We urge you not to undermine both climate goals and the world's biodiversity by shifting from burning fossil fuels to burning trees to generate energy.

For decades, producers of paper and timber products have generated electricity and heat as by-products from their process wastes. This use does not lead to the additional harvest of wood. In recent years, however, there has been a misguided move to cut down whole trees or to divert large portions of stem wood for bioenergy, releasing carbon that would otherwise stay locked up in forests.

The result of this additional wood harvest is a large initial increase in carbon emissions, creating a "carbon debt," which increases over time as more trees are harvested for continuing bioenergy use. Regrowing trees and displacement of fossil fuels may eventually pay off this carbon debt, but regrowth takes time the world does not have to solve climate change. As numerous studies have shown, this burning of wood will increase warming for decades to centuries. That is true even when the wood replaces coal, oil or natural gas.

The reasons are fundamental. Forests store carbon - approximately half the weight of dry wood is carbon. When wood is harvested and burned, much and often more than half of the live wood in trees harvested is typically lost in harvesting and processing before it can supply energy, adding carbon to the atmosphere without replacing fossil fuels. Burning wood is also carbon-inefficient, so the wood burned for energy emits more carbon up smokestacks than using fossil fuels. Overall, for each kilowatt hour of heat or electricity produced, using wood initially is likely to add two to three times as much carbon to the air as using fossil fuels.

Increases in global warming for the next few decades are dangerous. This warming means more immediate damages through more forest fires, sea level rise and periods of extreme heat in the next decades. It also means more permanent damages due to more rapid melting of glaciers and thawing of permafrost, and more packing of heat and acidity into the world's oceans. These harms will not be undone even if we remove the carbon decades from now.

Government subsidies for burning wood create a double climate problem because this false solution is replacing real carbon reductions. Companies are shifting fossil energy use to wood, which increases warming, as a substitute for shifting to solar and wind, which would truly decrease warming.

In some places, including Japan and French Guiana, there are proposals not just to burn wood for electricity but to burn palm or soybean oil. Producing these fuels requires expansion of palm or soybean production that leads to clearing of carbon dense tropical forests and reduction of their important carbon sink, both of which add carbon to the atmosphere.

"Sustainability standards" for forest or vegetable oil management cannot alter these results. Sustainable management is what allows wood harvest to eventually pay back carbon debts but cannot alter these decades or even centuries of increased warming. Similarly, any increased demand for vegetable oil adds to the global pressure to clear more forests already created by rising food demands.

Making countries responsible for emissions from land use changes, although desirable, cannot alone fix laws that treat burning wood as carbon neutral because these national responsibilities do not alter the incentives created by those laws for power plants and factories to burn wood. In the same way, the fact that countries are responsible for emissions from diesel fuel use would not fix a law encouraging trucks to burn more diesel on the flawed theory that diesel is carbon neutral. Both treaties that shape national climate responsibilities and each country's energy laws that implement them must accurately recognize the climate effects of the activities they encourage.

Your decisions going forward are of great consequences for the world's forests because if the world supplied just an additional 2% of its energy from wood, it would need to double its commercial wood harvests. There is good evidence that increased bioenergy in Europe has already led to greatly increased forest harvests there. These approaches also create a model that encourages tropical countries to cut more of their forests – as several countries have pledged to do – undermining the goals of globally accepted forest agreements.

To avoid these harms, governments must end subsidies and other incentives that today exist for the burning of wood whether from their forests or others. The European Union needs to stop treating the burning of biomass as carbon neutral in its renewable energy standards and in its emissions trading system. Japan needs to stop subsidizing power plants to burn wood. And the United States needs to avoid treating biomass as carbon neutral or low carbon as the new administration crafts climate rules and creates incentives to reduce global warming.

Trees are more valuable alive than dead both for climate and for biodiversity. To meet future net zero emission goals, your governments should work to preserve and restore forests and not to burn them.

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Founder of several scientific societies
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Vienna, Austria

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Lüneburg, Germany

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Copenhagen, Denmark

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VU University Amsterdam
Amsterdam, The Netherlands

Žiga Malek, Ph.D.
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Amsterdam, The Netherlands

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Retired (officially)
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Dean (Emeritus), School of the Environment

Duke University
Durham, North Carolina

Dominick A. DellaSala, Ph. D
Chief Scientist,
Wild Heritage Project of Earth Island Institute
Berkeley, California

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Youn Yeo-Chang, Ph.D.
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Massimo Pizzol, Ph.D.
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London, United Kingdom
Maria Oliveira, Ph.D.
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Salo Sciences, Inc.
San Francisco, California

Seongho Lee, Ph.D.
Director
Ketep
Seoul, Korea

Koichi Hasegawa, Ph.D.
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Daniela Perrotti, Ph.D.
Professor
Université catholique de Louvain
Louvain, Belgium

David Powlson, Ph.D.
Emeritus Scientist
Lawes Senior Trust Fellow
Rothamsted Research
Harpenden, U.K.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/8/2021 5:00:08 PM
To: Mugdan, Walter [Mugdan.Walter@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: RE: Reuters story on Limetree

Thanks, Walter.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Mugdan, Walter <Mugdan.Walter@epa.gov>
Sent: Monday, March 8, 2021 11:59 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: FW: Reuters story on Limetree

Hi Joe,

I know that you and your colleagues are very much engaged on the Limetree Bay permit issue. You may have already seen it, but just in case I wanted to bring to your attention a Reuters article on the subject published last night – see below.

Walter

Walter Mugdan
Acting Regional Administrator
U.S. EPA Region 2
212-637-4390
646-369-0058 (mobile)

From: Senn, John <Senn.John@epa.gov>
Sent: Monday, March 8, 2021 9:47 AM
To: Mills, Flaire <Mills.Flaire@epa.gov>; Simon, Paul <Simon.Paul@epa.gov>; Ruvo, Richard <Ruvo.Richard@epa.gov>; Patel, Harish <Patel.Harish@epa.gov>; Siegel, Joseph <Siegel.Joseph@epa.gov>; DeLay, Robert <Delay.Robert@epa.gov>; Chan, Suilin <Chan.Suilin@epa.gov>
Cc: Buettner, Robert <Buettner.Robert@epa.gov>; Rodriguez, Elias <Rodriguez.Elias@epa.gov>; Mears, Mary <Mears.Mary@epa.gov>; Jimenez, Christopher <Jimenez.Christopher@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>; Guerrero, Carmen <guerrero.carmen@epa.gov>
Subject: Reuters story on Limetree

Hi everyone—the Reuters reporter who we'd provided some information to a few weeks ago published her story last night. Here's the link to the online version, which includes some photos and graphics:
https://www.reuters.com/article/us-usa-caribbean-refinery-environment-in-idUSKBN2B00DA

Far from White House, Caribbean refinery to test Biden's promises on poverty and pollution
By Laura Sanicola

(Reuters) - Earlier this month, Loren Hughes, a longtime resident of the U.S. Virgin Islands, noticed specks of an oily substance covering his home, as well as those owned by his neighbors.

For Hughes, 46, it brought back memories of the last time St. Croix's long-idled refinery was operating, roughly a decade earlier. The refinery restarted last month, bringing back hundreds of jobs - but for nearby residents, they say it also brought difficulty breathing, headaches and watery eyes.

"Sometimes it's like sulfur or rotten eggs. The other smells are unexplainable," Hughes said.

The U.S. Environmental Protection Agency wants the refinery's owners, Limetree Bay Ventures, to increase its monitoring of air quality due to emissions affecting the nearby neighborhoods, but the owners have so far balked.

St. Croix is a long way from the U.S. mainland. But the battle over the refinery's pollution on this Caribbean island and tourist resort is one of the first tests of how the Biden administration will prioritize environmental justice.

As the United States has become the world's largest fossil fuel producer, opponents have grown more vocal about how many projects, particularly in the petrochemical and refining industries, are situated near low-income areas with large minority populations.

The Biden administration has vowed to make sure new energy projects do not unfairly harm those communities, such as the ones living near the refinery. About 90 million Americans live within 30 miles (50 km) of at least one refinery, according to environmental group Earthjustice.

"This situation offers the first opportunity for the Biden-Harris administration to stand up for an environmental justice community, and take a strong public health and climate chance stance concerning fossil fuels," said John Walke, senior attorney and director of clean air programs with the Natural Resources Defense Council.

After a decade idle, the Limetree Bay refinery restarted this year with plans to process up to 200,000 barrels of oil a day into gasoline and other fuels. Limetree Bay Ventures also received strict conditions from the U.S. EPA, which told the company that it had to add enhanced air quality monitoring.

Limetree Bay, backed by private equity firms EIG and Arclight Capital, is appealing that directive, saying the monitors are not necessary and their operating cost is not Limetree's responsibility.

A Reuters examination of publicly available EPA data shows the refinery is also currently not monitoring sulfur dioxide levels near the plant, as required. Limetree declined several requests for comment on this issue.

A spokesperson for EIG representing the refinery told Reuters it is committed to excellent environmental performance and considers it fundamental to the company's success. Arclight did not respond to requests for comment.

St. Croix residents are torn between dealing with the effects of pollution and the benefits of high-paying jobs that offset the loss of tourism dollars amid the coronavirus pandemic.

"When you are talking about people who are poor, they're not going to criticize the refinery that gives them jobs," said Virginia Clairmont, a community activist who meets with company representatives quarterly.

A 2020 study by researchers at University of Texas Medical Branch concluded that living within 30 miles of an oil refinery was associated with increased risk of multiple cancer types.

A DECADE-LONG SAGA

The permit Limetree Bay Ventures is fighting was issued during the Trump administration, but it is now up to the Biden administration to enforce it - as it considers even stricter controls.

The refinery, formerly known as Hovensa, produced more than 500,000 barrels of product per day before joint owners Hess and Venezuela's state-run oil company shut it down in 2012 following violations of the U.S. Clean Air Act. The company cited the global economic slowdown and competition with new refineries in emerging markets.

As it planned to reopen, Limetree in 2018 filed for a permit allowing the company to expand and construct additional units without being deemed a new source of pollution, which would require stricter pollution controls. Trump's EPA granted the permit, as long as emissions were kept under "plantwide applicability limit."

In a 2019 report here on Limetree, the EPA said it is difficult to conclude that Limetree Bay's emissions would not hurt nearby residents' health and quality of life. It later required Limetree Bay Ventures to add five air monitors in exchange for the permit.

Limetree Bay has appealed that ruling with the EPA's Environmental Appeals Board (EAB), a little-known independent U.S. tribunal comprised of four judges that rule on such disputes.

In its appeal, Limetree said the EPA requirements are linked to environmental justice concerns that are unrelated to operating within the pollution limits of the permit.

It is unclear when the EPA's appeals board will rule on the permit dispute. The Biden-run EPA could withdraw the permit, and it is also reviewing whether the refinery is a new source of pollution that requires stricter air pollution controls.

The White House declined to comment.

If the EAB sides against Limetree, the company has the right to appeal to a federal court. The EPA cannot appeal EAB rulings.

'QUALITY JOBS'

The restart has created 400 full-time jobs, 80% of which must go to island residents, who mainly rely on tourism for employment.

"In these difficult economic times, I am very pleased that the refinery is creating hundreds of well-paying, quality jobs for USVI workers," St. Croix Governor Albert Bryan Jr. said in January.

Officials estimate the refinery could bring in $7 million in tax revenue annually to the cash-strapped island of 105,000 people. The U.S. territory has a $4 billion unfunded pension liability that is roughly equal to the island's entire gross domestic product, according to Austin Nibbs, administrator of USVI Government Employees' Retirement System (GERS).

The refinery should pay the costs of air monitoring, said John Willard, 69, a retired St. Croix school principal with a government pension. "It's their duty and responsibility to make sure the communities are functioning in remain as healthy as possible and as clean as possible for air," he said.

Environmental groups, including the St. Croix Environmental Association, are challenging the permit, saying the permit issued by the Trump-era EPA gives Limetree too much leeway to pollute.

An EIG spokesman said the 2020 permit will "give Limetree the flexibility to explore more projects at the refinery that could lead to more local jobs and investment."

Many residents agree the jobs are needed, but the memory of previous owners remains fresh. Jelani Ritter, who supports the refinery restart, recalls how previous owners filed for bankruptcy, avoiding the U.S. Department of Justice's order to pay $700 million for pollution controls in 2011 after a series of incidents sickened residents.

"They made a lot of money off the people of the Virgin Islands and when it got difficult, they shut the plant down," Ritter said. "We felt used."

John Senn
Public Affairs Specialist
U.S. EPA – New York City Regional Office
212-637-3662

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/16/2021 12:43:24 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
CC: Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: FW: Meeting Request
Attachments: ACC Climate Letter to President Elect Biden 12.22.20.pdf

Our nice we'll-get-back-to-you note...

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Eisenberg, Ross <Ross_Eisenberg@americanchemistry.com>
Sent: Monday, February 15, 2021 9:56 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Meeting Request

Joe,

Good to have you back at the agency. I recently moved over to the American Chemistry Council to lead their government affairs division. ACC tends to be a little more solutions-focused than other industry groups in town, particular on air issues. We also have a deep bench of substantive and technical experts to draw from.

To that end, I'd like to request a meeting to bring in my team to meet with your team on two key air office issues: (1) climate policy and (2) ethylene oxide.

On climate, we have a number of in-progress projects that we'd like to brief the agency on, including industry decarbonization efforts, Kigali ratification, and some updated thinking on GHG regs. Attached is a letter we sent to President Biden on climate, congratulating him for reentering Paris and calling on all stakeholders to work together to enact carbon pricing policies.

On ethylene oxide, we've spent some time thinking about ways the agency can address this chemistry from a regulatory standpoint, and we'd like to share them with you.

I know you have a lot on your plate and understand it may take a while before you have time to meet. Either way I appreciate you considering our request. Thanks and I look forward to working with you the next few years.

Ross Eisenberg | American Chemistry Council
Vice President, Federal Affairs
Ross_Eisenberg@americanchemistry.com
700 2nd Street, NE | Washington, DC | 20002
O: (202) 249-6200
M: (703) 517-1655
www.americanchemistry.com

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December 22, 2020

President-Elect Joseph R. Biden, Jr.
1120 20th St. NW
Washington, DC 20036

Dear President-Elect Biden,

Five years ago, the United States joined 196 other parties at the 21st Conference of the Parties held in Paris, France, to sign an historic agreement to reduce global emissions of greenhouse gasses. The five-year anniversary of the United Nations' Paris Agreement was commemorated on December 12, 2020 by 75 countries, but the United States was notably absent. We believe it is important that our nation, and America's chemical manufacturers – a primary driver of the American economy, American innovation and the creation of emissions-reducing technologies – make clear that we support meaningful efforts to reduce emissions for the health of our planet and future generations.

Members of the American Chemistry Council (ACC) welcome your pledge to recommit the United States to the Paris Agreement. Further, we believe the opportunity associated with rejoining the Paris Agreement can only be fully realized if the new Administration, Congress and the private sector work together to develop and implement a combination of technology, market-based and policy solutions to drive emissions reductions in all nations.

Multiple industries, individuals and organizations, including ACC, have expressed a preference that Congress take the lead on climate policy and enact a program that includes market-based solutions, such as a transparent, predictable and technology- and revenue-neutral price signal. Despite this widely held consensus, broad bipartisan agreement among lawmakers has remained elusive. With recommitment to the Paris Agreement before us, the need to move beyond high-level notions to implementable policy becomes more urgent. The members of the ACC stand ready to be a constructive part of the dialogue to develop a meaningful and achievable solution.

The chemical industry has a unique perspective on carbon use and emissions. First, nearly half of the carbon associated with our industry's operations is used as a feedstock, meaning as an essential ingredient in the materials we produce, rather than as a fuel to produce electricity or heat. These resources are utilized for the carbon and hydrogen molecules within them, allowing our members to reconfigure and combine different molecules in different ways to create the

building blocks of thousands of materials and products our society relies upon. Therefore, nearly half the carbon utilization typically attributed to chemical manufacturing does not result in emissions, a fact rarely understood or acknowledged.

Second, the business of chemistry is an essential enabler of a low carbon future. The technologies and materials created by ACC members are helping to reduce or avoid emissions throughout our economy today. As demand for low and zero emissions solutions continues to grow in the future, so too will the demand for the products of chemistry, including plastics (which themselves are becoming cleaner and more recyclable). Virtually every low-carbon electricity, energy efficiency and transportation technology is made possible by chemical and plastic products, including solar panels, wind turbines, electric and high-efficiency vehicles, energy-efficient building products, low-emissions fuels, fuel cells, electrolyzers and advanced batteries. The contributions of chemistry to a sustainable future cannot be overstated and extend beyond energy solutions into adequate food supplies, safe and resilient building materials and zero-emissions transportation options, and include the medicines and medical equipment that have been so critical to the global COVID-19 response. Simply put, the goals of the Paris Agreement cannot be met without continued innovations in chemistry.

Addressing climate change is one of the defining issues of our age. ACC members stand ready to play a constructive role in the development of climate solutions that will support a healthy, thriving nation and planet for generations to come.

Sincerely,

Chris Jahn
President & CEO

Cc: Hon. John Kerry, Special Presidential Envoy for Climate, President-Elect Joe Biden
Hon. Gina McCarthy, National Climate Adviser, President-Elect Joe Biden

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/22/2021 12:12:04 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: Strat Ozone MVAC action memo 021821.doc SIGNED
Attachments: Strat Ozone MVAC action memo 021821.doc

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 7:22:17 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: Final Response to Xavier Becerra AG for CA - AX-21-000-1948.docx
Attachments: Final Response to Xavier Becerra AG for CA - AX-21-000-1948.docx

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

March 2, 2021

OFFICE OF
AIR AND RADIATION

The Honorable Xavier Becerra
Attorney General
State of California Department of Justice
1300 I Street, Suite 125
P.O Box 944255
Sacramento, California 94244
[HYPERLINK "mailto:Xavier.Becerra@doj.ca.gov"]

Dear Mr. Becerra:

Thank you for your letter of February 16, 2021, to the U.S. Environmental Protection Agency (EPA) Acting Administrator Jane Nishida, petitioning for reconsideration, on behalf of the States of California, Connecticut, Delaware, Illinois, Maryland, Minnesota, New Jersey, New York, Oregon, Rhode Island, Vermont, Washington, and Wisconsin, the Commonwealths of Massachusetts, Pennsylvania, and Virginia, and the City of New York, of the final action on the Review of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM), published in the Federal Register at 85 FR 82864 (December 18, 2020). The Acting Administrator asked that I respond on her behalf.

On January 20, 2021, President Biden issued an "Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" which directed review of certain Agency actions taken from January 17, 2017, until January 20, 2021. An accompanying fact sheet provides a non-exclusive list of Agency actions that Agency heads will review in accordance with that order, including the PM NAAQS decision. In addition to that review, EPA is reviewing your petition and upon completion of the review will determine whether to grant or deny your request.

If you have any questions, please contact Erika Sasser, Division Director, Health and Environmental Impacts Division, EPA's Office of Air Quality Planning and Standards at (919) 541-3889.

Again, thank you for your letter. I appreciate the opportunity to be of service and trust the information provided is helpful.

Sincerely,

Joseph Goffman
Acting Assistant Administrator

cc: Scott J. Lichtig
Deputy Attorney General of CA
[HYPERLINK "mailto:Scott.Lichtig@doj.ca.gov"]

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/2/2021 1:26:41 AM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: Landfill Letters - SIGNED AND APPROVED.
Attachments: Landfills Letter to State of New Mexico - Mr Bill Grantham.docx; Landfills Letter to State of Pennsylvania - Ms Ann R Johnston.docx; Landfills Letter to the State of Vermont - Mr Nicholas Persampieri.docx; Landfill Letter to State of Oregon - Mr. Paul Garrahan and Steve Novick - Oregon Department of Justic.docx; Landfill Letter to the State of Rhode Island - Mr. Gregory S Schultz.docx; Landfills Letter to Donahue Goldberg Weaver Littleton - Ms Susannah L Weaver and Mr. Matthew Littleton.docx; Landfill Letter to New Jersey Divsion of Law - Ms Lisa J Morelli.docx; Landfill Letter to the State of Maryland - Mr Joshua M Segal Special Assistant Attorney General.docx; Landfill Letter to Environmental Defense Fund - Ms Rachel Fullmer and Peter Zalzal.docx

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Mr. Bill Grantham
Assistant Attorney General
201 Third Street NW, Suite 300
Albuquerque, New Mexico 87102
[HYPERLINK "mailto:wgrantham@nmag.gov"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

Since the above-referenced case was briefed, certain significant intervening events have occurred relevant to the subject matter of this case and the underlying rulemaking at issue. In particular, on January 20, 2021, President Biden issued an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" that directs EPA to review certain agency regulations that may affect health and the environment. In a list of agency actions accompanying the Executive Order, the President specifically identified the rule at issue in this case as falling within the scope of the Executive Order. Moreover, the United States Court of Appeals issued an opinion in *American Lung Ass'n, et al. v. EPA*, Case No. 19-1140 (D.C. Cir. Jan. 19, 2021), partially vacating the general implementing regulations for Clean Air Act Section 111(d).

We are continuing to evaluate the impact of these events on the regulation at issue in this case. While that evaluation continues, EPA does wish to communicate at this time that, with respect to states that do not have an approved state plan for 2016 Municipal Solid Waste Landfills Emission Guidelines, the Agency intends to take final action on its proposed federal plan, 84 Fed. Reg. 43,745 (Aug. 22, 2019), by May 2021.

Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Ms. Ann R. Johnston
Senior Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square
Harrisburg, Pennsylvania 17120
[HYPERLINK "mailto:ajohnston@attorneygeneral.gov"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

Since the above-referenced case was briefed, certain significant intervening events have occurred relevant to the subject matter of this case and the underlying rulemaking at issue. In particular, on January 20, 2021, President Biden issued an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" that directs EPA to review certain agency regulations that may affect health and the environment. In a list of agency actions accompanying the Executive Order, the President specifically identified the rule at issue in this case as falling within the scope of the Executive Order. Moreover, the United States Court of Appeals issued an opinion in *American Lung Ass'n, et al. v. EPA*, Case No. 19-1140 (D.C. Cir. Jan. 19, 2021), partially vacating the general implementing regulations for Clean Air Act Section 111(d).

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Mr. Nicholas F. Persampieri
Assistant Attorney General
Office of the Vermont Attorney General
109 State Street
Montpelier, Vermont 05609
[HYPERLINK "mailto:nick.persampieri@vermont.gov"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

Since the above-referenced case was briefed, certain significant intervening events have occurred relevant to the subject matter of this case and the underlying rulemaking at issue. In particular, on January 20, 2021, President Biden issued an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" that directs EPA to review certain agency regulations that may affect health and the environment. In a list of agency actions accompanying the Executive Order, the President specifically identified the rule at issue in this case as falling within the scope of the Executive Order. Moreover, the United States Court of Appeals issued an opinion in *American Lung Ass'n, et al. v. EPA*, Case No. 19-1140 (D.C. Cir. Jan. 19, 2021), partially vacating the general implementing regulations for Clean Air Act Section 111(d).

We are continuing to evaluate the impact of these events on the regulation at issue in this case. While that evaluation continues, EPA does wish to communicate at this time that, with respect to states that do not have an approved state plan for 2016 Muncipal Solid Waste Landfills Emission Guidelines, the Agency intends to take final action on its proposed federal plan, 84 Fed. Reg. 43,745 (Aug. 22, 2019), by May 2021.

Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Mr. Paul Garrahan, Attorney-in-charge
Mr. Steve Novick, Special Assistant Attorney General
Natural Resources Section
Oregon Department of Justice
1162 Court Street, N.E.
Salem, Oregon 97301-4096
[HYPERLINK "mailto:paul.garrahan@doj.state.or.us"]
[HYPERLINK "mailto:steve.novick@doj.state.or.us"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Mr. Gregory S. Schultz
Special Assistant Attorney General
Rhode Island
Office of Attorney General
150 South Main Street
Providence, Rhode Island 02903
[HYPERLINK "mailto:gschultz@riag.ri.gov"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Ms. Susannah L. Weaver
Mr. Matthew Littleton
Donahue, Goldberg, Weaver & Littleton
1008 Pennsylvania Avenue SE
Washington, DC 20003
[HYPERLINK "mailto:susannah@donahuegoldberg.com"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Ms. Lisa J. Morelli
Deputy Attorney General
New Jersey Division of Law
25 Market Street
Trenton, New Jersey 08625
[HYPERLINK "mailto:Lisa.morelli@law.njoag.gov"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Mr. Joshua M. Segal
Special Assistant Attorney General
200 St. Paul Place
Baltimore, Maryland 21202
[HYPERLINK "mailto:jsegal@oag.state.md.us"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

Since the above-referenced case was briefed, certain significant intervening events have occurred relevant to the subject matter of this case and the underlying rulemaking at issue. In particular, on January 20, 2021, President Biden issued an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" that directs EPA to review certain agency regulations that may affect health and the environment. In a list of agency actions accompanying the Executive Order, the President specifically identified the rule at issue in this case as falling within the scope of the Executive Order. Moreover, the United States Court of Appeals issued an opinion in *American Lung Ass'n, et al. v. EPA*, Case No. 19-1140 (D.C. Cir. Jan. 19, 2021), partially vacating the general implementing regulations for Clean Air Act Section 111(d).

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

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

February 1, 2021

OFFICE OF
AIR AND RADIATION

Ms. Rachel Fullmer
Mr. Peter Zalzal
Environmental Defense Fund
2060 Broadway, Suite 300
Boulder, Colorado 80302
[HYPERLINK "mailto:rfullmer@edf.org"]

RE: *Environmental Defense Fund v. EPA, Case No. 19-1222 (and consolidated Case No. 19-1227)*

Dear Counsel:

Since the above-referenced case was briefed, certain significant intervening events have occurred relevant to the subject matter of this case and the underlying rulemaking at issue. In particular, on January 20, 2021, President Biden issued an Executive Order entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" that directs EPA to review certain agency regulations that may affect health and the environment. In a list of agency actions accompanying the Executive Order, the President specifically identified the rule at issue in this case as falling within the scope of the Executive Order. Moreover, the United States Court of Appeals issued an opinion in *American Lung Ass'n, et al. v. EPA*, Case No. 19-1140 (D.C. Cir. Jan. 19, 2021), partially vacating the general implementing regulations for Clean Air Act Section 111(d).

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Sincerely,

Joseph Goffman
Acting Assistant Administrator

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 7:21:00 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]
CC: Alejandra Nunez (Nunez.Alejandra@epa.gov) [Nunez.Alejandra@epa.gov]
Subject: FW: Request for Meeting

What does OTAQ think? Ale? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Shane Karr <roger.karr@stellantis.com>
Sent: Monday, March 1, 2021 2:13 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Request for Meeting

Hi Joe:

Following last week's auto industry/labor meeting with Directors McCarthy and Deese, I wanted to reach out and see about getting on your schedule to discuss Stellantis' prospective electrified product portfolio and how we move forward constructively in reducing GHG emissions from autos.

You may already be aware that we did a deep dive with the OTAQ team on January 20. I expect your time is limited, so we could do the short version of that meeting or cover whatever is of interest to you? In addition to myself, we would include our Head of Compliance and his key team, who are well known to your technical folks.

Please let us know a time(s) that works for you and we will make something work on our end.

Shane

On Mon, Feb 1, 2021 at 7:49 PM Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

> Again, Shane, this is excellent news. I appreciate both the outcome and the heads-up. Looking forward to making progress with you on this. Thank you.
>
> Joseph Goffman
>
> Acting Assistant Administrator
>
> Office of Air and Radiation
>
> U.S. Environmental Protection Agency

From: Shane Karr <roger.karr@stellantis.com>
Sent: Monday, February 1, 2021 7:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: EMBARGOED: CSAR Statement

Hi Joe:

Per our conversation, the below statement will be released at 7 am tomorrow by the Coalition. Wanted you to have it in advance but please embargo until the release time. Thank you.

Shane

"The Coalition for Sustainable Automotive Regulation (CSAR) chose to intervene in a lawsuit between California and the federal government to support a unified fuel economy and greenhouse gas (GHG) program. We are aligned with the Biden Administration's goals to achieve year-over-year improvements in fuel economy standards that provide meaningful climate and national energy security benefits, reduce GHG emissions and promote advanced technologies. In a gesture of good faith and to find a constructive path forward, the CSAR has decided to withdraw from this lawsuit in order to unify the auto industry behind a single national program, with ambitious, achievable standards."

--

STELLANTIS

Shane Karr
Mobile: 202-360-1187
shane.karr@stellantis.com

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/22/2021 12:11:58 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: Hi from USW and RFS/RINs

Yes, please. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Friday, February 19, 2021 10:26 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FW: Hi from USW and RFS/RINs

Is this something you'd like for us to put on the scheduling list?

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Cassady, Alison <Cassady.Alison@epa.gov>
Sent: Thursday, February 18, 2021 4:56 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: FW: Hi from USW and RFS/RINs

From Steelworkers. Anna and I have worked together previously.

From: Fendley, Anna <afendley@usw.org>
Sent: Thursday, February 18, 2021 4:47 PM
To: Cassady, Alison <Cassady.Alison@epa.gov>
Cc: Smith, John Paul <jpsmith@usw.org>
Subject: Hi from USW and RFS/RINs

Hi Alison!

Congrats on your position at EPA! I'm sure you've been drinking through a firehose. There are a slew of issues that would be great to check in on, but wanted to make sure that we flag the RFS since it's pretty timely right now. Including a summary of the issue below, and we've attached a few documents for your reference. We'd love to chat about this sometime soon.

As you know, we represent the majority of refinery workers, and we've been working on RFS and RINs market issues for many years because they significantly impact some of our employers' viability. As part of the renewable fuel standards (RFS), refineries were made the point of obligation for the renewable volume obligation (RVO).

A number of the refineries we represent are merchant companies, meaning they purchase crude product to refine and sell the finished products to customers who control the blending. Because of the point of obligation through the RFS, these refiners must purchase renewable identification numbers (RINs) on an unregulated and highly volatile market to show compliance with the RVO. Because of failed policy from the previous administration, **these costs have risen over 400% in the last year and the D6 RINs have risen over 1000%.**

One of our employers, PBF Refining, recently sent the attached letter to their employees (our members). Other refining employers have reached out to our union as well expressing major concerns over the costs. During their 2015 bankruptcy, the now closed Philadelphia Energy Solutions (PES) cited RIN costs as a major factor in their filing. The last administration had several missteps on this policy, in our view, including their refusal to appeal the 10th Circuit's decision on small refinery exemptions (SRE).

If left unchanged this policy will undoubtedly close more US merchant refineries – bad for jobs, bad for climate if we have to import oil, etc. We would welcome the opportunity to work with the administration on long-term RFS and RIN market reform, but there are a couple things that could be done in the short term.

- Granting the state Governors waiver petitions citing severe economic harm (The National Wildlife Federation supports these waivers citing severe environmental harm) or,
- Grant the current small refinery exemptions (SREs)

I know this is a long email, but wanted to make sure you had the full background on our end. Let us know if you can make some time to chat about this.
Thanks!

Anna

—
Anna Fendley
Director of Regulatory and State Policy
United Steelworkers (USW)
afendley@usw.org
+1 202-778-4384 (o)
www.usw.org

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
NASHVILLE, TENNESSEE 37243-0435

DAVID W. SALYERS, P.E.
COMMISSIONER

BILL LEE
GOVERNOR

February 24, 2021

Joseph Goffman
Principal Deputy Assistant Administrator
US EPA Office of Air and Radiation
Goffman.Joseph@epa.gov

Alejandra Nunez
Deputy Assistant Administrator for Mobile Sources
US EPA Office of Air and Radiation
Nunez.Alejandra@epa.gov

Tomás Elias Carbonell
Deputy Assistant Administrator for Stationary Sources
US EPA Office of Air and Radiation
Carbonell.Tomas@epa.gov

RE: Publication of Final Rule in Federal Register – EPA Approval of Tennessee's Request to Remove I/M Program From SIP

Dear Mr. Goffman, Ms. Nunez, and Mr. Carbonell:

This letter respectfully requests and encourages US EPA to move forward with publication in the Federal Register of the already approved request by Tennessee to remove the inspection and maintenance (I/M) program from its State Implementation Plan (SIP). See, https://www.epa.gov/sips-tn/epa-approval-tennessees-requests-remove-inspection-and-maintenance-im-program-tennessee. Former US EPA Region IV Regional Administrator Mary Walker signed the final rule approving of Tennessee's request after public processes at both the state and federal level and after lengthy evaluation by EPA agency personnel in various offices regionally and nationally. The only remaining step is publication of the final rule in the Federal Register.

US EPA Administrator Nominee Regan recently testified before the U.S. Senate that the US EPA under his direction would follow the science and follow the law. The state of Tennessee applauds this regulatory decision-making methodology. Publication of this final rule in the Federal Register accords with this methodology.

EPA's approval of Tennessee's request is grounded in science. The Clean Air Act provides that revisions to SIPs cannot occur if the revision would interfere with the

attainment or maintenance of a national ambient air quality standard (NAAQS). In its technical demonstration and consistent with EPA guidance, Tennessee compared projected emissions with and without the I/M program to determine what the emissions increase would be if the program was removed. Tennessee demonstrated the emissions increase was negligible. Tennessee also performed sensitivity analysis to evaluate what the ozone level, the pollutant of most concern, increase might be without the program in the applicable counties. The resulting increase was negligible. While Tennessee did not rely on this analysis as part of its required technical demonstration, the state provided the analysis as something additional EPA could consider. Tennessee then performed additional analysis that looked at on-road emissions out to 2030, beyond what is required by EPA guidance. This analysis showed carbon monoxide, nitrogen oxides, and volatile organic compounds decreasing from 2022 to 2030 in both Hamilton County and Middle Tennessee, demonstrating continued emissions decline in the mobile source sector and supporting Tennessee's request. Tennessee's technical demonstration complied with EPA guidance in evaluating the potential emissions increase with and without an I/M program. Tennessee performed additional evaluations as weight of evidence that the state's request, if approved, would not result in interference with attainment or maintenance of a NAAQS. Tennessee's demonstration was sufficient as evidenced by the various technical reviews completed by various groups within EPA, both regionally and nationally, and the approval of Tennessee's request.

Both Tennessee and EPA followed the law. Tennessee completed the demonstration required by Section 110(l) of the Clean Air Act and followed all appropriate processes for regulatory and SIP related changes, including providing adequate opportunity for the public to provide review and comment of the requested change. Since 2018, when Tennessee's General Assembly directed the state to seek EPA's approval to eliminate the I/M program from the state's SIP, there have been numerous public discussions at Tennessee Air Pollution Control Board meetings and information available on the department's website in addition to public discourse that occurred throughout the legislative session. With the completion of the technical demonstration, public notice was completed for both the Hamilton County and Middle Tennessee packages. At the same time, Tennessee submitted the proposed technical demonstration to EPA on October 18, 2019, with a request for parallel processing. Public hearings were held in Tennessee on November 21, 2019, in Hamilton County and November 19, 2019, in Middle Tennessee and each package received over 90 written comments in addition to comments provided orally at the hearings. The department presented the final packages at the January 8, 2020, Tennessee Air Pollution Control Board meeting. The Board requested additional analysis above and beyond what is required by EPA guidance and an additional 30-day public comment period. The additional public notice was published on January 16, 2020, and 124 public comments were received. Tennessee evaluated and responded to all comments received during both public processes and the final packages were adopted by the Tennessee Air Pollution Control Board at the February 26, 2020, meeting and then submitted to EPA. EPA then embarked upon its own evaluation and public process, which included another round of public notice and comment and the evaluation of Tennessee's submittal as well as data demonstrating a decrease in ozone levels since 2014 and comparison of

projected 2022 emissions with and without I/M to 2014 emissions. In its approval of Tennessee's request, EPA responded to all public comments received as a part of its public process. Over a three-year period, Tennessee and EPA have completed all legal and process-related requirements and have provided the public three separate opportunities to review and comment on this requested change.

The state of Tennessee is committed to ensuring Tennesseans enjoy air quality that meets all national and state standards. In 2018, the state made a pragmatic policy decision to seek EPA's approval to removal the I/M program from the state's SIP in compliance with the Clean Air Act. Legislative discussion in support of this policy decision specifically referenced the program's impact on low-income populations in Tennessee. The state has completed the required technical analysis and demonstration, engaged with the public through a public process twice, responded to all comments provided and made all applicable regulatory changes. EPA has completed its work and public process as well and approved Tennessee's request. Tennessee and EPA have demonstrated, in multiple ways, that removal of the I/M program from the state's SIP will not interfere with the attainment and maintenance of federal ambient air quality standards. All that remains is publication in the Federal Register. Respectfully, Tennessee requests that publication of the final approval proceed without further delay.

Sincerely,

David W. Salyers, P.E.
Commissioner

DWS:kbr

cc: Casey Katims, US EPA Deputy Associate Administrator for Intergovernmental Affairs
Katims.Casey@epa.gov

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/9/2021 3:29:42 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: AL-21-000-1842 - Veolia Duckworth Response.FINAL.docx
Attachments: AL-21-000-1842 - Veolia Duckworth Response.FINAL.docx

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

March 9, 2021

OFFICE OF
AIR AND RADIATION

The Honorable Tammy Duckworth
United States Senate
Washington, D.C. 20510

Dear Senator Duckworth:

Thank you for your January 27, 2021, letter to U.S. Environmental Protection Agency (EPA) Acting Administrator Jane Nishida concerning the Veolia North America-Trade Waste Incineration (Veolia) facility in Sauget, Illinois. Acting Administrator Nishida requested that I respond on her behalf.

Specifically, you requested that EPA install multi-metals monitoring at Veolia after the U.S. Department of Health and Human Services' Agency for Toxic Substances and Disease Registry (ATSDR) determined that it does not have enough data to conduct a public health evaluation. As detailed below, EPA is working to place a toxic metals monitor near the Veolia facility.

EPA recognizes that there have been longstanding environmental justice issues faced by the surrounding community in Sauget and East St. Louis. The Biden-Harris Administration has made a commitment to make environmental justice a part of the mission of every agency by directing federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities. EPA's goal is to help state and local government partners advance their environmental justice programs while ensuring compliance with applicable civil rights laws. EPA also welcomes opportunities to engage in collaborative problem-solving with federal, state, local, and community partners to achieve lasting and positive change in response to community priorities and concerns

Regarding air monitoring, EPA is making plans to deploy a mobile, continuous multi-metals monitor near Veolia this spring. This instrument will measure ambient concentrations of metals and, when coupled with meteorological information, also provide information about the source of these metals. The instrument is currently deployed in northwest Indiana and EPA plans to move it to Sauget for several months. This monitor will provide important information to the community and ATSDR about ambient toxic metals near the incinerator. EPA will coordinate with ATSDR on the monitoring effort and will share validated data with ATSDR – and the public.

While we look forward to the findings of the metals monitor, there are longstanding air monitoring sites currently in operation in the area. The Illinois Environmental Protection Agency operates a site that measures criteria pollutants less than two miles away from Veolia. And the Missouri Department of Natural Resources operates two sites that measure criteria and hazardous air pollutants – including metals – just over four miles away from Veolia. While these sites are not immediately adjacent to the incinerator and may not be sufficient for the purposes of the proposed ATSDR study, air monitoring data for the community are available. Upon analyzing the past three years of data, annual averages of metal concentrations did not exceed any health benchmarks.

Finally, I wanted to share that EPA performed a Clean Air Act inspection at Veolia from October 19-20, 2020 in response to numerous citizen complaints. The focus was to ensure compliance with the Act's requirements to minimize leaks of volatile organic compounds to the atmosphere. EPA identified concerns during the inspection and is working with Veolia to address them.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyil in EPA's Office of Congressional and Intergovernmental Relations at *thundiyil.karen@epa.gov* or at (202) 564-1142.

Sincerely,

Joseph Goffman
Acting Assistant Administrator

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/11/2021 1:21:57 PM
To: Dunham, Sarah (Dunham.Sarah@epa.gov) [Dunham.Sarah@epa.gov]; Alejandra Nunez (Nunez.Alejandra@epa.gov) [Nunez.Alejandra@epa.gov]
Subject: FW: GE Aviation Sustainability Backgrounder
Attachments: GE Aviation Sustainability White Paper - 10 Mar 21.pdf

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Kemkar, Neal (GE Corporate) <neal.kemkar@ge.com>
Sent: Thursday, March 11, 2021 8:20 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: GE Aviation Sustainability Backgrounder

Joe – welcome back and congrats to Administrator Regan on confirmation!

Some background on GE Aviation's many sustainability efforts attached if helpful before our meeting later today. NK

Neal Kemkar
Executive Counsel
GE Government Affairs & Policy
Tel. 202-286-3957

GE Aviation: Committed to a more sustainable future for air transport

Our Commitment

GE Aviation (GE) fully supports global ambitions to reduce carbon emissions and achieve a more sustainable future. As part of the aviation community, GE embraces our role in ensuring the aviation industry finds low-carbon solutions and believes that a holistic approach is vital to achieving ambitious emissions reduction targets, as well as helping its customers achieve sustainable flight operations. To that end, GE invests $1 billion annually to accelerate technology innovations needed to drive reduction in carbon emissions that help make flying increasingly sustainable.

Investing in Enabling Technologies

GE's priority has always been to develop and mature breakthrough technologies that reduce emissions and lower noise. Engine technology introduced by GE and CFM International[1] for commercial aircraft has resulted in a more than 40 percent reduction in fuel consumption since the 1970s.[2] GE recently completed renewal of its commercial engine portfolio yielding a new generation of engines with significant reductions in emissions.[3] GE continues to lead the effort to bring more efficient technology to combustion engines through improvements in engine architecture, aerodynamics, and materials.

- **Higher bypass pressure ratios (BPR)** dramatically improve propulsive efficiency.
- Advancements in aerodynamics yielding **higher overall pressure ratios (OPR)** coupled with **new combustion technologies** to reduce nitrous oxide (NOx) emissions.
- **Materials & Manufacturing breakthroughs** including carbon fiber composite fan blades, titanium aluminide (TiAl) turbine blades, ceramic matrix composites (CMC)[4], and additive manufacturing.

Developing the Next Generation of Breakthrough Technologies

GE and CFM continue to develop new breakthrough technologies to support a further 20 percent plus reduction in aviation emissions. Together, we are embarking on a bold technology demonstrator program that will include flight testing of key new technologies to build confidence and drive technology maturation in the following areas:

- Maximizing **propulsive efficiency** with new open rotor technology that yields the highest possible bypass ratio while solving noise concerns previously associated with open rotor concepts.[5]

---

[1] CFM International is a 50/50 joint venture of GE Aviation and Safran Aircraft Engines that produces CFM56 and LEAP engines.

[2] This 40% reduction in fuel burn yields a 40% reduction in CO_2 emissions.

[3] The GE9X engine certified by the FAA on September 28, 2020 has 35 percent margin to the latest International Civil Aviation Organization (ICAO) Committee on Aviation Environmental Protection (CAEP) nitrous oxide (NOx) emissions limit ... a limit that is 50% lower than the NOx limits first established in 1981.

[4] Ceramic Matrix Composites (CMC) have one-third the weight and 200° C (500° F) additional temperature capability versus traditional metallic components

[5] Open rotor maturation efforts include CLEEN Program collaboration with NASA and Clean Sky program activities in Europe through Avio Aero (GE's Italian entity) including supporting open rotor demonstrator engine testing with Safran.

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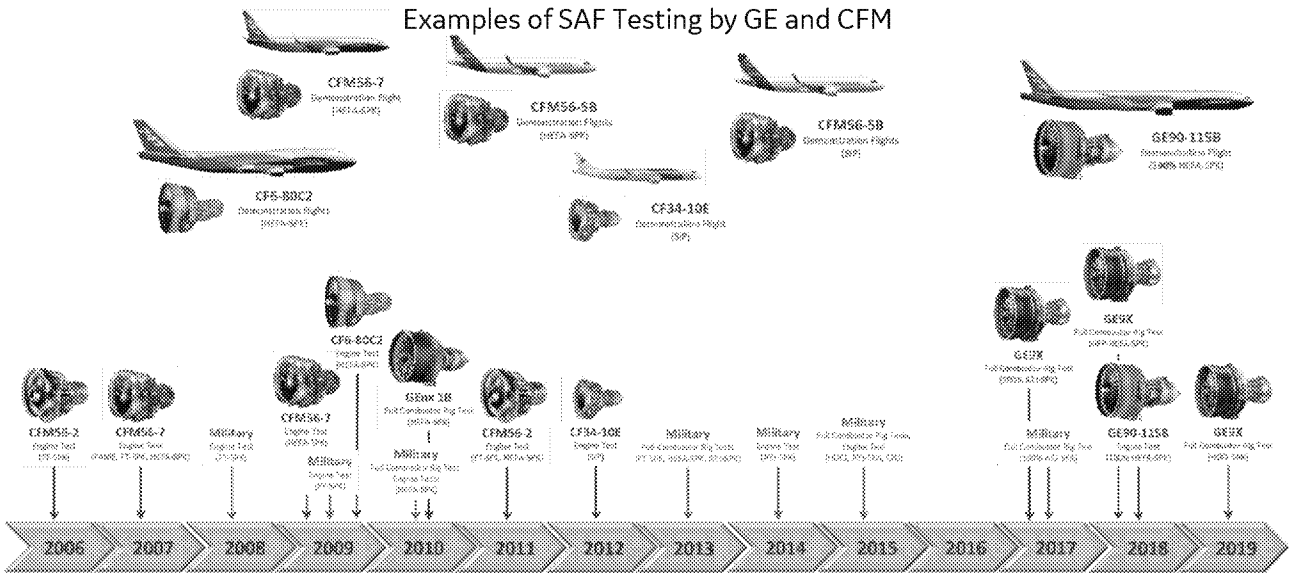
- Developing **next generation thermal efficiency** with new materials, manufacturing processes, higher OPRs, and advanced thermal management techniques to turn higher heat loads from a problem into an opportunity.
- Aggressive **hybrid electric technology** development to further improve engine efficiency and create opportunities to electrify aircraft.[6]

Moving beyond the engine

GE is also investing in and supporting technologies that extend beyond the design of engines that can be quickly adopted to further reduce aviation carbon emissions.

- **Sustainable Aviation Fuel (SAF)** — GE plays a key role supporting the approval of SAF through ASTM International including extensive testing of candidate SAF during the qualification review process. Additionally, the vast majority of 300,000 flights[7] completed globally with SAF have been powered by GE and CFM engines. Increasing the use of SAF has the potential to reduce aviation net carbon emissions up to 80 percent independent of other actions. All GE and GE partnership engines currently in service can be operated with approved SAF.

Examples of SAF Testing by GE and CFM



- **Improvements to Air Traffic Management (ATM)** — GE developed performance based navigation (PBN) technology optimizes air space operations. GE-designed and implemented PBN flight paths help reduce track miles flown, yielding significant fuel and emissions savings of up to 10 percent independent of other actions.
- **Improvements to Engine Operational Performance** – GE developed digital tools to help airlines identify opportunities to operate engines more efficiently through use of continuous engine operating data (CEOD).[8] GE also developed advanced on-wing cleaning procedures to ensure that engines continue to operate at peak efficiency, reducing fuel burn deterioration over time.

Summary

We believe the technological advances achieved over the past decades, the innovations that are currently being developed, and the demonstrated commitment to reduce its carbon footprint position the aviation industry to continue being a strong partner to achieve the shared goal of a more sustainable future and continued economic growth.

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[6] GE modified a military F110 engine to generate 1 megawatt (MW) of electric power while operating at altitude conditions by extracting 250 kW from the high-pressure turbine and—in an industry first for a two-shaft engine—extracting 750 kW from the low-pressure turbine.

[7] See https://aviationbenefits.org/environmental-efficiency/climate-action/sustainable-aviation-fuel/.

[8] Adoption of GE's FlightPulse® technology by 2715 pilots at one large global airline yielded a 15 percent increase in adoption of fuel-saving procedures saving 1.8M kg of fuel and avoiding over 5.7M kg of CO_2 emissions.

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Our Recommendations

Support globally harmonized standards

The Obama Administration recognized that a global industry like aviation requires global standards. That is why, for more than five years, it pushed the U.S. to play a leadership role in developing the first-ever global carbon emissions standards for commercial airplanes at the ICAO level, applying to all 190+ member countries. With manufacturers selling their products worldwide and operators flying them across borders, it is vital that environmental standards continue to be agreed to at the international level at ICAO. U.S. aircraft operators and manufacturers must have a level playing field to compete within the global aviation industry. Unilateral imposition of a U.S.-only CO2 standard on U.S. aircraft would have significant impacts on U.S. aviation industry competitiveness, yet, given that other countries would be following the internationally-agreed standard would bring little to no additional environmental benefit.

Invest in low emissions aviation technology

Strategic, structural government investment in aviation technology infrastructure is critical to reduce long-term aerospace emissions, protect U.S. strategic interests amid foreign competition, and position the U.S. aviation industry to recover from the COVID-19 pandemic. To meet aviation industry CO_2 commitments, a next generation aircraft fuel burn reduction goal of 20+ percent is needed, requiring a shift in propulsion and aircraft technologies. Achieving this dramatic fuel burn reduction requires acceleration of R&D of advanced propulsor, thermal management, and hybrid electric technologies as well as advanced integration of propulsion systems with optimized aircraft designs. Additionally new concepts like hydrogen fuel cells and liquid hydrogen combustion present both new opportunities and new challenges that will require investment to ensure US leadership in these emerging technologies. Scaling these new revolutionary technologies will also likely require new manufacturing methods and skillsets. Industry partnering with NASA and FAA on technology maturation is a proven path with a successful track record of accelerating development and transitioning technology into the aviation fleet.

Increase funding for NASA Aeronautics and FAA CLEEN programs on par with funding programs in Europe and elsewhere to accelerate aviation technology development.[9]

Implement a comprehensive strategy for sustainable aviation fuel (SAF)

SAF has the potential to reduce life cycle carbon emissions from today's jet engines by up to 80 percent. Approved SAF are "drop in" – they can be substituted for Jet A fuel in every commercial engine flying today without requiring changes to the engines, aircraft, or infrastructure. Many airlines already use SAF but in very low volumes. Widespread SAF adoption is limited by lack of availability and higher production cost yielding fuel that is two to five times more expensive than conventional jet fuel. Critical investments and comprehensive strategies are needed to stimulate greater production volumes and equivalent reductions in SAF cost from economies of scale.[10]

- Establish a comprehensive federal grant and cost sharing program to support production, transport, blending, and storage of SAF
- Prioritize alternative fuels for aviation use versus other modes of travel which are easier to decarbonize
- Accelerate federal efforts via ASCENT, CLEEN, and CAAFI
- Increase the SAF Blender's Tax Credit for SAF to $2 per gallon and reduce fuel taxes on SAF
- Promote state level alliances to increase localized supply at a competitive price

Accelerate Investment in improvements to Air Traffic Management (ATM)

Advanced airspace design and ATM procedures can yield optimized flight paths that reduce track miles flown, reduce CO_2 emissions, reduce pilot workloads, and help minimize fly over noise. Accelerated implementation of the FAA's NextGen technologies—especially Performance Based Navigation (PBN)—would increase flight efficiency while decreasing carbon emissions by almost 10 percent independent of any other changes.

- Accelerate completion of NextGen implementation, including PBN, to create a more efficient US ATM system.

[9] In addition to EU-wide programs focused on next generation technology development such as Horizon Europe, which supports the European Partnership for Clean Aviation, Germany (€1 billion), France (€1.5 billion), and UK (£284 million, matched by industry) have announced significant funding for clean aviation R&D. Meanwhile, China is advancing its aerospace airframe and propulsion capabilities by investing tens of billions of dollars in homegrown champions.

[10] The European Commission's ReFuel EU Aviation Proposal for Regulation aims to boost the supply and demand for sustainable aviation fuels in the EU and establish the EU as the leader in this technology space.

GE Designated: NON-PUBLIC – may release with approval only

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/8/2021 4:35:24 PM
To: Millett, John [Millett.John@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: access?

Thanks, John. The link worked.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

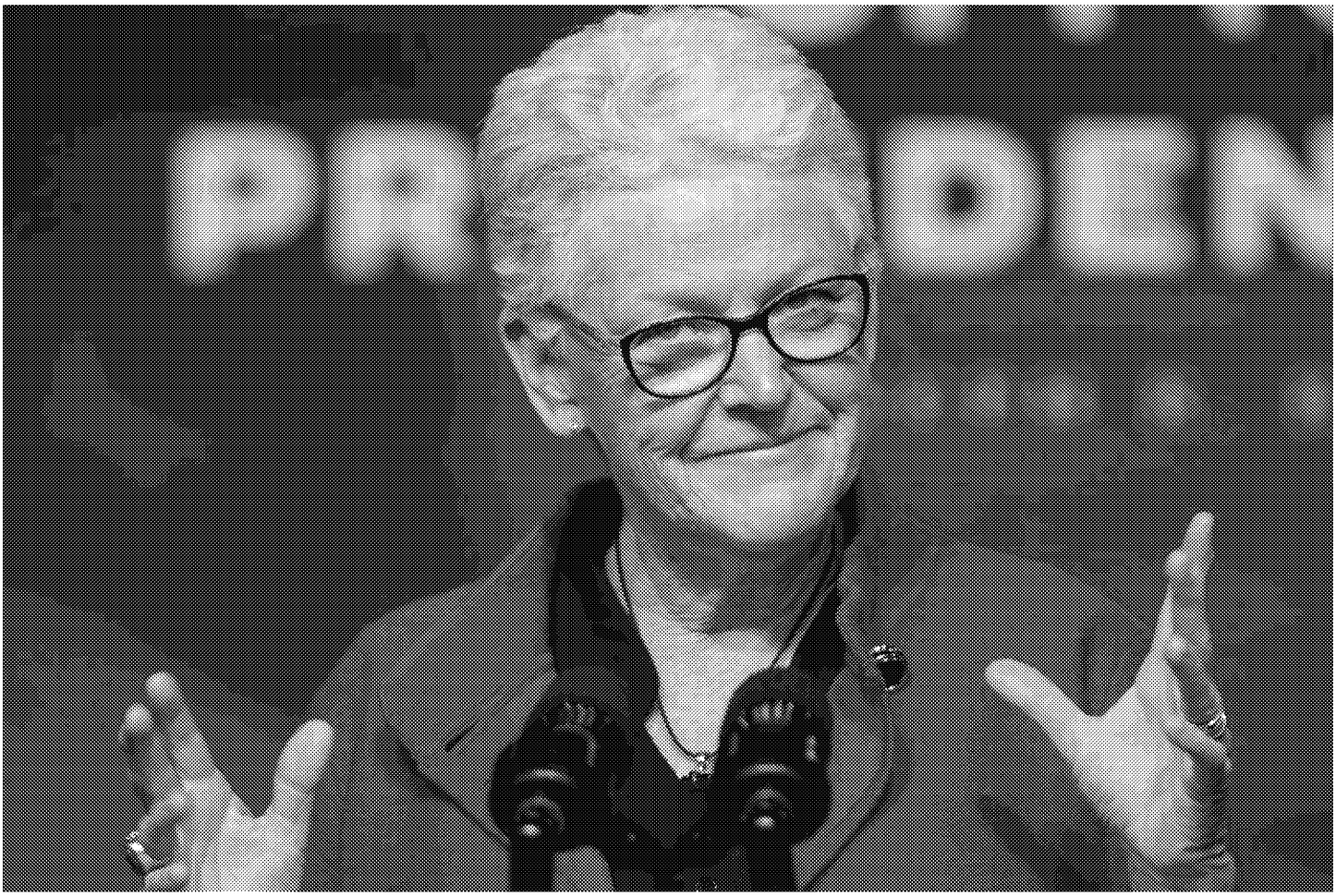
From: Millett, John <Millett.John@epa.gov>
Sent: Monday, March 8, 2021 10:50 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: access?

Here's the article – let me check with the press office on our regular access to this site --

The Petroleum Industry May Want a Carbon Tax, but Biden and Republicans are Not Necessarily Fans

The new administration has made clear that its approach to reducing emissions will involve regulation, incentives and other government actions.

By Marianne Lavelle, Judy Fahys
March 8, 2021



Gina McCarthy, the White House National Climate Advisor, speaks at the Queen theater on December 19, 2020 in Wilmington, DE. Credit: Joshua Roberts/Getty Images

The largest U.S. oil industry trade group is considering an endorsement of carbon taxes for the first time. But the biggest news may be how little that is likely to matter, as U.S. climate policy moves decisively in an entirely different direction.

The American Petroleum Institute confirmed that its member companies are trying to arrive at a consensus about carbon pricing—a position that almost certainly will involve trade-offs, including less government regulation, in exchange for the industry's support of taxes or fees.

Economists have long favored making fossil fuels more expensive by putting a price on carbon as the most simple and cost-effective way to cut carbon dioxide emissions. Most big oil companies, including ExxonMobil, BP, Shell, and Chevron, endorse carbon pricing, although they have done little to push for it becoming policy. But API's move for an industry-wide position comes just as the Biden administration has made clear that it is moving forward with regulation, investment in clean energy research and deployment and a broad suite of other government actions to hasten a transition from energy that releases planet-warming pollution.

Unsurprisingly, many view the API move as a cynical effort to stave off a looming green onslaught. "The American Petroleum Institute is considering backing a carbon tax — but only to prevent ambitious regulation of greenhouse emissions," tweeted the Center for Biological Diversity.

Newsletters

We deliver climate news to your inbox like nobody else. Every day or once a week, our original stories and digest of the web's top headlines deliver the full story, for free.

- Today's ClimateWeekdays
  Our no-nonsense daily d

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Monday, March 08, 2021 10:44 AM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Millett, John <Millett.John@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: access?

https://insideclimatenews.org/news/08032021/carbon-tax-biden-gina-mccarthy-api-petroleum-industry-ceraweek/

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/7/2021 10:35:22 PM
To: Erick Lutt [elutt@bio.org]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
CC: Tara Billingsley - Jim Massie & Partners, LLC (tbillingsley@massiepartners.com) [tbillingsley@massiepartners.com]
Subject: RE: HollyFrontier SCOTUS Case

Hi, Erick (and Tara) –

Appreciate hearing from you on this. As you can probably surmise, thanks to the work I was lucky enough to be able to do on the EPA Agency Review Team during the Transition, and the march of time towards February 22, this proceeding is front of mind these days. Rest assured that my new colleagues here have done an outstanding job of bringing the incoming political team up to speed on the case. I will work with the scheduling team here in OAR to see if there's a time when we can connect, but my calendar is already extremely challenging to manage. So, please be patient.

Thank you for getting in touch.

Best,
Joe

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Erick Lutt <elutt@bio.org>
Sent: Thursday, February 4, 2021 12:53 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Tara Billingsley - Jim Massie & Partners, LLC (tbillingsley@massiepartners.com) <tbillingsley@massiepartners.com>
Subject: HollyFrontier SCOTUS Case

Hi Joe,

I hope you're doing well. I thought Secretary Regan's confirmation hearing went well yesterday.

Our member companies have asked for us to reach out to EPA regarding the HollyFrontier small refinery exemption case coming before the Supreme Court.

We understand the small refiners' Petitioners' Brief is due around February 22nd. It's our understanding that the Solicitor General typically requests the views of the Agency several weeks in advance of when the first brief is due.

We are hoping that EPA will reconsider its positions from the 10th Circuit and either file a brief on the side of Respondents, or at a minimum, request an extension from the Supreme Court to give the Agency more time to consider its position. There may also be opportunities for EPA to request that SCOTUS reconsider its grant of cert. We believe doing so would be consistent with the Biden Administration's commitment to promoting biofuels and addressing climate change.

Please let me know if you are available to visit about this further before EPA sends it recommendations over to DOJ.

Thank you for your consideration.

All the best,
Erick

Erick Lutt
Senior Director
Biotechnology Innovation Organization
Mobile: 202.701.8153
elutt@bio.org

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Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/3/2021 11:07:45 PM
To: Millett, John [Millett.John@epa.gov]
CC: DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: TPs attached re: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Millett, John <Millett.John@epa.gov>
Sent: Wednesday, February 3, 2021 6:03 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: TPs attached re: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Sorry for the resend – same attachment as before– I just found details on tomorrow's event at the bottom of a long thread. Adding here – they'll have you log in just before 3pm and give 5 minutes of remarks – then you can gracefully bow out.

On **Thursday, February 4th from 3-4:30 PM ET**, the American Lung Association and American University's Center for Environmental Policy and Center for Environmental Filmmaking are co-hosting a virtual panel event focusing on opportunities for the Biden-Harris Administration to advance climate action and the promise of the Clean Air Act - healthy air for all communities.

In this discussion, clean air and climate experts representing an array of perspectives will explore ways the Administration can help to deliver equitable and health-focused climate solutions by supporting full implementation of the Clean Air Act, improving air quality monitoring technologies and reporting, fostering the growth of clean, non-combustible energy and low-emission and zero-emission vehicles, and other promising approaches. You can visit the virtual event page for more information and to register. The event is open to media and the public, but space is limited so register today.

Speakers include:

- Adrienne Hollis, Senior Climate Justice and Health Scientist at the Union of Concerned Scientists
- Ali Mirzakhalili, Air Quality Division Administrator for the State of Oregon
- Ann Weeks, Senior Counsel and Legal Director at Clean Air Task Force
- Marcy Reed, Massachusetts President and executive vice president of energy policy and social impact at National Grid
- Moderator: Kelsey Brugger, reporter, E&E News

From: Millett, John
Sent: Wednesday, February 03, 2021 5:33 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Isabel DeLuca <DeLuca.Isabel@epa.gov>
Subject: TPs attached re: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Ex. 5 Deliberative Process (DP)

I'm going to try to talk to the organizers now, and can fill you in more in the morning, Joe.

Thanks!

John

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Wednesday, February 03, 2021 12:19 PM
To: Millett, John <Millett.John@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Millett, John <Millett.John@epa.gov>
Sent: Wednesday, February 3, 2021 12:16 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

On it.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Wednesday, February 03, 2021 12:13 PM
To: Utech, Dan <Utech.Dan@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Adhar, Radha <Adhar.Radha@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

OK, then. Millet and I will compose the TPs, etc. Rosemary – you can let them know that I will participate. Thanks.

Joseph Goffman

Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Utech, Dan <Utech.Dan@epa.gov>
Sent: Wednesday, February 3, 2021 11:45 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Adhar, Radha <Adhar.Radha@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Good here Joe

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Wednesday, February 3, 2021 11:35 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Adhar, Radha <Adhar.Radha@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Millett, John <Millett.John@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Ex. 5 Deliberative Process (DP)

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Wednesday, February 3, 2021 11:32 AM
To: Adhar, Radha <Adhar.Radha@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Millett, John <Millett.John@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Adding Dan.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Adhar, Radha <Adhar.Radha@epa.gov>
Sent: Wednesday, February 3, 2021 11:31 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann

<Campbell.Ann@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: Re: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

I defer to Dan!

Sent from my iPhone

On Feb 3, 2021, at 11:25 AM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Wednesday, February 3, 2021 11:13 AM
To: Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Levy, Maxwell <Levy.Maxwell@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Adhar, Radha <Adhar.Radha@epa.gov>; Millett, John <Millett.John@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Arroyo, Victoria <Arroyo.Victoria@epa.gov>
Sent: Wednesday, February 3, 2021 10:46 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Levy, Maxwell <Levy.Maxwell@epa.gov>
Subject: RE: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Hi Rosemary,
I would defer to Joe or his folks in OAR given the climate theme (and not sure what we would say yet on "recapping the recent climate and clean air policy actions at this early stage") but if Joe can't make it, I would be happy to make a brief appearance if folks agree it's important to have one of us zoom in

briefly. Thanks!
Best,
Vicki

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Wednesday, February 3, 2021 10:31 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Fine, Philip <Fine.Philip@epa.gov>; Cassady, Alison <Cassady.Alison@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Levy, Maxwell <Levy.Maxwell@epa.gov>
Subject: SPEAKER NEEDED TODAY: Virtual Panel Event with American Lung Association Tomorrow

Hi there,

The American Lung Association is hosting a virtual panel discussion in conjunction with American University entitled – Looking Ahead: A Roadmap for Health Air and Equitable Climate Action for the Biden Administration. They have reached out to see if someone from the EPA team can join and give brief remarks at the beginning of their virtual event which is being held Thursday, February 4th (TOMORROW) at 3pm ET. They would like the EPA surrogate to share a policy perspective recapping the recent climate and clean air policy actions, reflecting on where we are now, and sharing priority actions for the agency moving forward.

The virtual event will be held on Zoom, and they are asking speakers to join by 2:45 PM ET on Thursday, February 4th to make sure all logistics are set. The EPA representative will share 5 minutes of remarks (starting between 3:05 and 3:10).

Ex. 5 Deliberative Process (DP)

Thank you!
Rosemary

Rosemary Enobakhare
Associate Administrator
Office of Public Engagement and Environmental Education
U.S. EPA Office of the Administrator
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
Cell: 202.573.4614

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/7/2021 5:56:11 PM
To: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]
Subject: ACE/CPP Letter
Attachments: ACE letter v2.docx

Flag: Follow up

Hi, Peter. Here are my suggested edits to the letter that Kevin and OGC drafted. I leave it to you to decide whether sharing it with Kevin today is fair game. ***Note that we have a briefing on this for the Third Floor scheduled for Tuesday*** So, in addition to getting this letter in shape to circulate by then, we also need to pull a presentation together,

Ex. 5 Deliberative Process (DP)

For colleagues in OAR and OGC reviewing the letter, I want to flag that I introduced flagrant inconsistencies on capitalizing "S/state" and "C/court", so someone has to figure that out.

Feel free to call, or have Kevin or anyone else call any time this afternoon or evening if needed.

Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/24/2021 4:04:14 AM
To: Campbell, Ann [Campbell.Ann@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Shaw, Betsy [Shaw.Betsy@epa.gov]
Subject: RE: FOR YOUR APPROVAL: Ozone ICR renewal draft of 2nd proposal for OAR AA approval -- Implementation of the 8-hour National Ambient Air Quality Standards for Ozone (EPA ICR No. 2347.04, OMB Control No. 2060-0695)

Approve. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Tuesday, February 23, 2021 10:42 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>
Subject: FOR YOUR APPROVAL: Ozone ICR renewal draft of 2nd proposal for OAR AA approval -- Implementation of the 8-hour National Ambient Air Quality Standards for Ozone (EPA ICR No. 2347.04, OMB Control No. 2060-0695)
Importance: High

Joe, the attached is ready for your review and approval. As discussed previously, OMS is requiring all ICR requests go through the (Acting) AA for approval before they will act on the request. These typically do not find their way through the IO, but because of OMS' request, they now need your written approval to proceed. Please let me know if you approve with OAQPS proceeding.

Than you,

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Mcquilkin, Wendy <Mcquilkin.Wendy@epa.gov>
Sent: Tuesday, February 23, 2021 10:15 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Cc: OAQPSREGPROCESSING <OAQPSREGPROCESSING@epa.gov>
Subject: Ozone ICR renewal draft of 2nd proposal for OAR AA approval -- Implementation of the 8-hour National Ambient Air Quality Standards for Ozone (EPA ICR No. 2347.04, OMB Control No. 2060-0695)
Importance: High

Good morning Ann,

Attached are the updated files.

Wendy

From: Sandfoss, Kristina <Sandfoss.Kristina@epa.gov>
Sent: Friday, February 19, 2021 11:20 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Cc: OAQPSREGPROCESSING <OAQPSREGPROCESSING@epa.gov>
Subject: Ozone ICR renewal draft of 2nd proposal for OAR AA approval -- Implementation of the 8-hour National Ambient Air Quality Standards for Ozone (EPA ICR No. 2347.04, OMB Control No. 2060-0695)
Importance: High

FOR IO REVIEW AND CONCURRENCE

Attached is the 2nd ICR notice for the Implementation of the 8-hour National Ambient Air Quality Standards for Ozone (EPA ICR No. 2347.04, OMB Control No. 2060-0695) for OAR AA approval. The fast approaching deadline to OMB is 2/28.

OAQPS Contact – Amber Iglesias 202-564-3175

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/26/2021 3:02:07 AM
To: Grundler, Christopher [grundler.christopher@epa.gov]; Newberg, Cindy [Newberg.Cindy@epa.gov]; Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: FW: Public Comment from FCI Regarding AIM Act
Attachments: FCI Public Comment - AIM Act - Goffman.pdf

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Francis James <fjames@fci-nj.com>
Sent: Thursday, February 25, 2021 5:20 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: sales <sales@fci-nj.com>
Subject: Public Comment from FCI Regarding AIM Act

FIRST CONTINENTAL INTERNATIONAL

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Dear Joe,

We really appreciated the chance to speak during this morning's AIM Act stakeholder meeting .

Just to reiterate, our company First Continental International (FCI) has great appreciation and support for the EPA's efforts in combatting climate change.

To elaborate on the points Greg Heden from our company discussed, we've attached a more detailed report for your review, as well as submitted this document as a public comment.

We understand you are working from home, but we have also mailed you a physical copy to your offices in the case you can receive it there.

Once again, we greatly appreciate the EPA's efforts, and value this opportunity to share eye-opening perspectives into the importance and benefits of HFC-152a to American industries, and especially the health of our citizens and environment.

We look forward to continuing our correspondence in the future, and take care.

Best Regards,

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February 25th, 2021

Joe Goffman
Acting Assistant Administrator
1201 Constitution Ave NW
Washington, DC 20004

Impacts of the American Manufacturing and Innovation Act, 2021

Dear Joe Goffman,

First Continental International (FCI) fully respects and supports the EPA's implementation of the AIM Act to reduce global warming effects through the phase-down of high-GWP HFCs.

We agree this endeavor will be challenging but have faith in the EPA's ability and commitment to implementing a smooth transition to this new initiative and keeping Americans safe from the threat of climate change. We rally behind your statement about 'working at the speed of trust' together through the engagement and open communication you generously offer to us.

Our company's over 15-year experience importing, supplying, and servicing HFC's will provide valuable and necessary feedback to assisting the goal of a smooth and fair transition.

Most notably, there is one HFC, specifically HFC-152a, whose phase-down will have severe negatives effects that will be counterproductive to achieving the goals laid out in the AIM Act. HFC-152a makes up a negligible share of the total global warming impact of the other HFC's and has no suitable replacement both economically and environmentally. As we heard during the AIM Act stakeholder meeting on February 25th, the EPA's efforts during the phasedown of ozone-depleting substances like CFCs and HCFCs have already prevented millions of cases of skin cancer. In this report you will even find that HFC-152a usage is preventing another carcinogen, 'vinyl chloride', from being used widely in massive quantities in the US.

The following 3 recommendations will allow the EPA to easily meet the total HFC phasedown schedule required by the AIM Act while greatly preserving conditions for American markets:

- Exempt HFC-152a entirely from phase-down or place on a separate, slower phase-down schedule.
- Delay the start of any HFC-152a phase-down by 5 years to identify suitable alternatives.
- Distribute allowance based on average 2017-2019 consumption data to represent accurate market demand.

There are several justifications expressed below that show why HFC-152a should be treated differently than other HFCs in the rulemaking process in Section (e)(4)(B)(i) of the AIM Act, considering the technical achievability, commercial demands, affordability for residential and small business consumers, safety, and other relevant factors, including overall economic costs and environmental impacts:

Justifications

1. HFC-152a is different than higher GWP HFC's:
    a. Low GWP: With a GWP of only 124, HFC-152a has little impact on total HFC global warming contribution.
    b. Versatility: HFC-152a can be used to effectively replace high-GWP HFCs in several applications.
2. HFC-152a has no suitable alternative including HFO-1234ze:
    a. Safer Feedstocks: Unlike most HFC-152a production, HFO-1234ze uses Vinyl Chloride, a dangerous carcinogen and regulated by the EPA.
    b. Low Energy Consumption: HFC-152a uses over 4 times less than HFO-1234ze.
    c. Less Environmentally Hazardous Byproducts: HFO-1234ze produces high levels of Hydrochloric Acid which contributes to 35-40% of acid rain.
    d. Cost Efficient Processes: HFO-1234ze's multistep process required to remove carcinogen components, preventing future pricing improvements.
    e. High efficiency: HFC-152a is 20% more efficient than HFO alternative.
    f. Low Cost: HFC-152a is one-third the price of any proposed HFO alternatives.
3. Allowance based on 2017-2019 market participation will ensure a smooth phase-down and save American jobs.
    a. Market Changes: HFC demands have shifted in the last decade due to other regulatory changes, antidumping cases, and new formulations. Using recent data will provide most representative demand model for allocation of allowance.

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1. HFC-152a globally recognized as environmentally friendly product.

A. Low GWP, low cost, and high performance

HFC-152a is part of the league of the 3 lowest GWP materials as shown in **Table 1**, and is used in several applications such as hairspray, polyurethane foam, as a refrigerant, and more. The reason there are no reputable replacements for HFC-152a is because of its inexpensive cost, efficiency in use, and excellent gas expansion performance. In fact, the EPA's very own SNAP policy final ruling on December 1, 2016 listed HFC-152a as an acceptable alternative refrigerant for replacing high-GWP HFC's like HFC-134a (1430 GWP) in PU blowing foams, MVACs in heavy duty vehicles, and personal refrigerators and freezers[1].

Table 1. List of regulated HFC materials

Chemical Name	Common Name	Global Warming Potential (GWP)	CARB GWP Limits
CH_2FCH_2F	HFC–152	53	**GWP < 150**
CH_3F	HFC–41	92	
CH_3CHF_2	**HFC–152a**	**124**	
CH_2FCHF_2	HFC–143	353	**GWP 300 – 1,100**
CH_2F_2	HFC–32	675	
$CH_2FCF_2CHF_2$	HFC–245ca	693	
$CF_3CH_2CF_2CH_3$	HFC–365mfc	794	
$CHF_2CH_2CF_3$	HFC–245fa	1030	
CHF_2CHF_2	HFC–134	1100	**GWP 1,100 – 14,800**
$CH_2FCF_2CF_3$	HFC–236cb	1340	
CHF_2CHFCF_3	HFC–236ea	1370	
CH_2FCF_3	HFC–134a	1430	
$CF_3CHFCHFCF_2CF_3$	HFC–43–10mee	1640	
CF_3CHFCF_3	HFC–227ea	3220	
CHF_2CF_3	HFC–125	3500	
CH_3CF_3	HFC–143a	4470	
$CF_3CH_2CF_3$	HFC–236fa	9810	
CHF_3	HFC–23	14800	

B. No viable replacements and industry importance

Since HFC-152a is low-GWP, non-volatile organic compound (non-VOC), and low cost, it is treasured by several industries including personal care, foam-blowing, and more. For its benefits, HFC-152a is being considered for several new applications rather than other current and next generation technologies. Additionally, it is being used in metered dose inhalers (MDIs) as recently adopted by European pharmaceutical companies[2], and this exemption demonstrates precisely how safe HFC-152a is.

Other proposed alternatives to HFC-152a such as Dimethyl Ether (DME), propane, butane, and other hydrocarbon blends, are unsuitable because of their high volatility and high flammability properties. This makes these potential substitutes unsuitable for most of the core applications of that utilize HFC-152a.

i. US HFC-152a Market

The 152a market in the United States is vast. According to a CARB report, HFC-152a is used in 87% of consumer aerosol products (air fresheners, deodorants, hair spray, dusters). Other important uses are technical aerosols (degreasers, dusters) and as a blowing agent in making polymer foams.

Market research prepared for the EPA[3] reports the following total amount of HFC-152a used in the consumer products in 2008: **21,417 MT** (metric tons), out of which **8,300 MT**, or 38.6 % were used as propellants in dusters. HFC-152a had in fact replaced the high-GWP product HFC-134a in some dusters. This was simply because of its low-GWP and lower cost, and especially for HFC-152a's environmental advantages. Finally, an estimated breakdown of HFC-152a consumed in the North American market is reported by the National Renewable Energy Laboratory[4]: Aerosol applications 54%; Blowing agent 20 %; Feedstock 17%; Refrigerant uses 8%. Based on these two sources the following structure of HFC-152a domestic usage can be deduced, in Table 2.

Table 2. Domestic annual consumption of HFC-152a

Applications	Percentage	Amount, MT
Total annual consumption	100	**39,661**
All aerosol applications	54	21,417
Personal care	(33)	13,088
Dusters	(21)	8,300
Blowing agents	20	7,932
Feedstock	17	6,742
Refrigerant use	8	3,173

ii. Metered-dose inhalers emergent application

HFC-152a is emerging as a favored aerosol component of metered-dose inhalers (MDIs). Major companies have already begun to swing into action, as high-profile Italian MDI manufacturer Chiesi announced an HFC-152a supply agreement with Mexichem to replace HFC-134a in their products. According to Chiesi, this "will reduce the carbon footprint of the MDI by about 90%," and should be market-ready by 2025[5]. This would not only reduce the GWP of the current propellant greatly (from HFC-134a's 1430 GWP to HFC-152a's 124 GWP), but also lower prices to end users. People at lower income levels, especially during this pandemic, rely so much on the affordability of inhalers to sustain their everyday lives.

In fact, FCI's material has a purity of 99.999%, and can satisfy quality demands for these medical applications as well, showing that quality of HFC-152a worldwide will be sufficient and contribute to healthy market competition. Overall, the technical achievability of HFC-152a is already proven for this application, and as discussed during the first stakeholder meeting, the quantities for MDI allowance should be generous to include growing needs during the global health crisis, as well as room for future medicine that may benefit by dosage through inhalation.

iii. Technical challenges of reformulation

As a blowing agent, HFC-152a presents excellent insulation, wall thickness, and is approximately half the cost of commonly used foam blowing agents in the industry. Major polyurethane foam and polystyrene board companies have already begun investing heavily into

R&D for implementation of HFC-152a into their products and are only just now approaching production to see the benefits of their efforts. The phase out schedule proposed is a costly setback to those have been innovating with HFC-152a for its benefits to the environment at 124 GWP, vs the original product HFC-134a's much higher 1,430 GWP.

There is no doubt that technical readiness of HFOs is far from ideal with but American manufacturers having to retrofit or buy new equipment, reformulate their products, and after all to buy a much more expensive ingredient. This all will result in unnecessary technological hurdles as well as a significant financial burden and a loss of profitability and jobs.[6]

iv. Patented HFO Blends and their high GWP levels

As we have stated prior, US industries must reformulate to accommodate use of an HFO replacement. This is because many HFOs are in fact not "drop-in" replacements to their HFC counterparts, and thus have to be prepared as blends with other [6] HFCs with very high GWP. As a result, these HFO blends are all higher than HFC-152a and are as high as 1945 GWP! This illustrates just how low of an impact HFC-152a has with a GWP of only 124, if these HFO/HFC blends will be considered acceptable, non-regulated materials.6imply A list of many of these blended products, their composition breakdown, total GWP values, and their respective manufacturers can be seen in **Table 3**.

Table 3. HFO Blends and GWP

Company/Product	**Refrigerant Code**	**Composition Breakdown**	**Total GWP**
Honeywell			
Solstice N15	R-515B	R-1234ze / R-227ea 91.1%/8.9%	299
Solstice N13	R-450A	R-134a / R-1234ze 42/58 %	547
Solstice N40	R-448A	R-32/R-125/R-134a/ R-1234ze€/R-1234yf 26%/26%/21%/7%/20%	1,273
Chemours			
Opteon XP-10	R-513A	R-1234yf, R-134a 56%/44%	573
Opteon XP-40	R-449A	R-134a, R-1234yf, R-125, R-32 25.7%/25.3%/24.7%/24.3%	1282
Opteon XP-44	R-452A	R-1234yf, R-125, R-32 30%/59%/11%	1945
Opteon XL20	R-454C	R-1234yf, R-32 78.5%/21.5%	158
Opteon XL41	R-454B	R-32, R-1234yf 68.9%/31.1%	466
Arkema			
Forane 516A	R-516A	R-1234yf, R-152a, R-134a 77.5%/14.0%/8.5%	131

Forane® 449A (XP40)	R-449A	R-32, R-125, R-134a, R-1234yf 24.3%/24.7%/25.7%/25.3%	1282

Once again, HFC-152a has a GWP of only 124. While it should be noted that these blends have "lower GWP" values when compared to some of their virgin HFCs, none of these blends have a GWP lower than that of HFC-152a, the closest being Forane 516A. In fact, Forane 516A is the only blend in the list to come below the 150 GWP value that has been adopted by the EU and CARB and also has a significant amount of HFC-152a!

Another concern of players in the HFC market is how end users (such as manufacturers and distributers) will choose to spend their allocation. For example, if an HFO manufacturer "is allocated 100,000 pounds of carbon dioxide equivalent, can choose to manufacturer approximately 25 pounds of R-404A, or…about 70 pounds of their patented HFO blend." One can easily see which choice they will make[7]. This will drive the price of HFCs higher, forcing users such as supermarkets, aerosol manufacturers, and other HFC users to either "Conform or Die" in terms of business, further increasing the Big 3's stranglehold on the market under the guise of helping businesses "go green".

C. HFC-152a and global acceptance

CARB, or the California Air Resources Board, has even stated that they have no reasonable replacements to HFC-152a for foam blowing and propellant applications because none of the current available materials can meet the environmental benefits of 152a from its low-GWP and non-VOC characteristics without significant cost sacrifices that would harm the viability of the industries it is supposed to support. Finally, as shown in Table 1, CARB has categorized "high-global warming potential (high-GWP) refrigerants [to] include all ozone-depleting substances and any refrigerant with a GWP of 150 or higher," leaving HFC-152a outside of even their focus, for its benefits.

In a recent communication with Dr. Richie Kaur, an air pollution specialist at California Air Resources Board (CARB), she acknowledged HFC-152a as a popular propellant due to its "non-toxic, non-flammable, and low in reactivity compared to volatile organic compounds (VOC)."

Other European environmental groups and legislation such as the European F-Gas rules have also designated HFC-152a as being a preferred replacement for high-GWP HFC's, given its overall environmental benefits and low-GWP of 124.

2. HFC-152a has no suitable alternative including HFO-1234ze.

A. Massive vinyl chloride usage in HFO production

Vinyl chloride (CAS number 75-01-4) is a carcinogen that is well-documented by the EPA. In the National Recommended Water Quality Criteria for human health, the EPA has issued a Maximum Contaminant Level (MCL), with anything over 0.022 μg/L causing adverse effects[8].

Vinyl chloride is also clearly stated in the list of hazardous air pollutants on the first page of the Clean Air Act[9]. As described in the additional costs of HFO processing, vinyl chloride is undeniably a necessary feedstock for HFO production, and HFO-1234ze consumes 550 kg per MT (as shown in Appendix A).

As the role of the EPA is to regulate both human and environmental health it will be crucial to acknowledge that the use of another EPA-regulated material (vinyl chloride) is simultaneously being promoted. Thousands of tons FSof it are processed annually in the Gulf Area, and while we have already reviewed the processing steps required to treat it, this area is well known to be prone to natural disasters such as hurricanes, tornadoes, and Artic blasts in winter that could endanger its security. Massive usage of any highly toxic and carcinogenic material like vinyl chloride jeopardizes environmental health and exerts significant stress on chemical risk management and first responder personnel.

As discussed, HFO producers can never skip the costly three-part processing to remove this, and if there were any mistake or error, it would have catastrophic effects on consumers who will be using personal care items like body and hair sprays.

More than two-thirds of the HFC-152a produced globally does not use vinyl chloride as feedstock, nor is it created as a by-product, because of the specific acetylene process used by our sources.

B. High carbon footprint of the HFO process chemistry

The low GWP value of HFOs, such as HFO-1234yf, only paints a small picture of its fate in the atmosphere. It does not take into consideration any greenhouse gas emissions associated with its manufacturing. The HFO manufacturing process is highly energy and material demanding and generates a larger carbon footprint than the HFC-152a processes.

Carbon footprints given in **Table 5** are calculated in-house using publicly available data on energy consumption and CO_2 emissions on two HFO plants, one in the US and one in China and one HFC-152a plant in the US. The CO_2 footprint figures attest that the carbon footprint of HFO-1234yf manufacturing both in the US and China is very high. For 1 metric ton, it is **20 times higher** than the carbon footprint of manufacturing 1 metric ton of HFC-152a.

Table 5. Comparative Analysis of Carbon Footprints of HFO and HFC manufacturing

Chemical	Production	Assumptions[1,2]	CO_2 footprint
HFO-1234yf	7,000 MT	2.46 MT of coal translates into 20 MWh	9 MT per 1 MT of HFO-1234yf
HFO-1234yf	12,000 MT	536 thousand MT of CO_2 emissions for all 5 plants within the facility	9 MT per 1 MT of HFO-1234yf
HFC-152a	20,000 MT	24 thousand MT of CO_2 emissions for whole plant	0.4 MT per 1 MT of HFC-152a

[1]Assumptions for CO_2 emissions are from the EPA Greenhouse Gas Reporting Program available for public at https://www.epa.gov/ghgreporting/ghgrp-chemicals

[2]Assumptions for the energy consumption by the Arkema plant in China are from the City of Suzhou government, which approved construction of the Arkema Changshu plant: http://www.zfxxgk.suzhou.gov.cn/sjjg/szsfzhggwyh/201401/t20140103_346327.html, translated from Chinese.

Carbon footprints of HFO-1234ze could not be estimated because of lack of data, but based on chemistry, one can safely say that it is very close to that of HFO-1234yf, as given in Table 4.

All known methods of HFO manufacturing have serious drawbacks such as a multistep process, low selectivity, environmental hazards, high cost, and high carbon footprint. For example, the Honeywell method for producing HFO-1234yf, implemented on their Geismar, LA plant, starts with the Kharasch addition of CCl_4 to ethylene followed by a sequence of five more reaction steps. Theory suggests the following material balance: to produce 1 mole of HFO-1234yf one takes 1 mole of ethylene, 1 mole of CCl_4, 1 mole of Cl_2 gas, and 4 moles of anhydrous HF. For comparison, the manufacturing of 1 mole of HFC-152a takes 1 mole of acetylene and 2 moles of anhydrous HF in a one-step process.

C. Hydrochloric acid byproducts

While hydrochloric acid is a routine raw material in the chemical industry, it is notably absent from the production of HFC-152a, and there is no threat of it being dumped or leaked into the Earth's environments. While producers of HFO's may organize the reuse or recycling of HCl from its production, the threat of release simply always exists similarly to that of vinyl chloride.

Rather, HFO-1234ze has a byproduct of 3.34 MT per 1 MT of production. It is also worth noting that gaseous HCl is listed in The List of Extremely Hazardous Substances and Their Threshold Planning Quantities (40 CFR Part 300), while liquid hydrochloric acid (37 %) and HCl aerosols are regulated under the Clean Air Act section 112 (r), List of Substances for Accidental Release Prevention (40 CFR Part 68). Once again, the EPA must consider the promotion of another one of their own regulated items.

i. Precedence of HCl environmental harm

The exposure of HCl in the environment contributes to the acidification of water bodies. When released, it was originally thought that HCl stayed not far from the plant—binding to particulates or water droplets and precipitating immediately. For this reason, only sulfates were blamed for acidification (and acid rain) until they and HCl were both scrubbed, showing disproportionate improvement. It was found that HCl was traveling just as far and accounting for 30-40% of the acidifying ions[10,11].

Additionally, the HFO plants in Louisiana and Texas may be affected by tornadoes or by hurricanes such as the Category 5 that hit Texas in 2020[12]. Unexpected phenomena like this or the winter storm of 2021 that hit Texas, are very real possibilities that can threaten its release into the environment. In fact, due to the recent cold weather conditions in the gulf region, many major chemical producers, such as Formosa, Celanese, and Dow have declared a force majeure due to the damage caused to the infrastructure of their plants in the region[13]. In other cases, the holding tanks containing HCl can rupture as a result of age, poor design, or neglect, as was seen recently with the Freeport, IL based plant for Modern Plating[14].

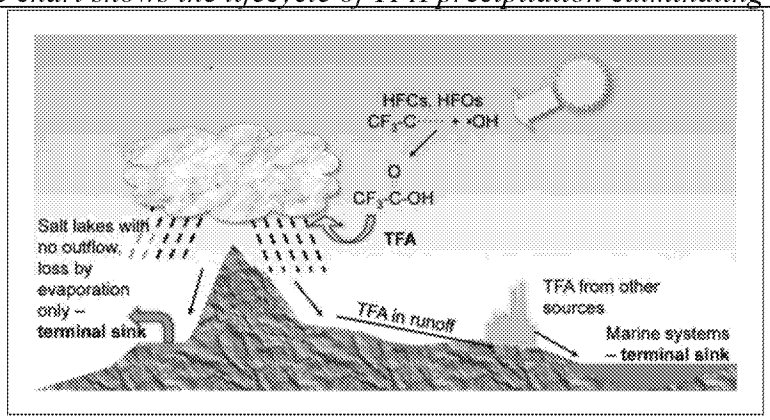
ii. Presence of increased Hydrogen Fluoride

Anhydrous Hydrogen Fluoride (AHF) is used as a major feedstock in the manufacturing of HFO-1234ze. In the hydrofluorination reaction leading to HFO, not all AHF is fully consumed, and certain amounts of it appear as by-products. For example, as shown in Appendix A, 90 kg of HF per 1 MT of 1233zd is left unreacted. This by-product needs to be separated and recycled either as AHF or (if scrubbed in aqueous solution) hydrofluoric acid. Both AHF and hydrofluoric acid are listed by the EPA as extremely hazardous substances and must be strictly controlled at every step of production, transportation, storage, and disposal.

In addition, Hydrofluoric acid was reported to be an oxidative degradation product, when post-consumer HFO escapes into the troposphere. Commercial HFO products such as 1234yf, 1234ze, 1233zd all form HF upon atmospheric degradation. This atmospheric hydrofluoric acid contributes to acidification of the environment and creates health risks due to the deep tissue damage from epidermal exposure as well as the toxic action of F^- anions and the inhalation hazard it can pose in its gaseous form[15].

D. Trifluoroacetic acid byproduct of HFOs

Fig.1. The above chart shows the lifecycle of TFA precipitation culminating in water sources.



While some of these HFO and HFC refrigerants have been shown to produce the byproduct trifluoroacetic acid (TFA) upon decomposition in the troposphere, it has been shown that the yield of TFA from HFOs such as HFO-1234yf is a 1-to-1 molar and w/v ratio, while it is only 21% of that from its HFC counterpart HFC-134a[16]. Interestingly enough, HFC-152a has been shown to not break down into TFA at all! One of the major concerns is that the TFA, a strong acid (pKa = 0.23) and a persistent chemical, generated from HFO emissions, enters the troposphere and precipitates back to the ground in the form of acid rain[17,18]. High-profile non-government organizations such as Greenpeace and Environmental Investigation Agency call for immediate measures, which should include the following: more fundamental scientific research to investigate the HFO environmental fate, production quotas, ban of the use of HFO in aerosols, inclusion of HFO into the Annex of Controlled Substances of the Kigali Amendment to the Montreal Protocol[19].

In an article from "Accelerate", Allison Skidd, the North American marketing manager of fluorochemicals for Chemours' (one of the few companies who stands to gain with the phasing out

of HFC's in favor of HFO's) suggests that "the TFA generated from current and future use of fluorinated materials will add only fractionally to the amount already present…"[19]. However, other sources suggest that HFO's will add 19,000 metric tons or more per year into the environment that was not previously there[20,21]. Due to the aforementioned fact that TFA does not break down readily, that would equate to 190,000 tons after 10 years, and potentially much more.

In Conclusion:

A. HFO-1234ze uses carcinogen vinyl chloride as feedstock.
B. Much higher carbon footprint
C. Acidifying byproducts and degradation products that contribute to acid rain.

E. Performance comparison to HFC-152a

HFC-152a is incredibly significant to the personal care and cosmetics industry, which is part of the highly lucrative aerosol market in the U.S. This is a vastly growing market that is very commonly found in the homes of American citizens: from hairspray to body spray and much more. The importance stems from its favorability in the formulation, offering excellent spray pattern from optimized vapor pressure. The vapor pressure HFC-152a is 74 psig at 68° F, while HFO-1234ze is 62 psi at 68°F, while HFC-152a is 74 psi at 68°F. This difference means products with HFC-152a require less material to have the same effect; about 10%. This difference also influences spray pattern as well and *would* necessitate retrofitting on equipment and packaging.

The data given in Table 3 attest the high importance of HFC-152a, particularly in personal care. The above cited EPA report[22] also estimates that about 4 billion aerosol units are filled annually in the US. The end use breakdown of this amount is as follows: household products 28%, personal care products 27%, food 13%, automotive 13%, paints and finishes 11%, insect sprays 6%, and miscellaneous 3%. The share of HFC-152a in personal care is estimated as 35%[22], which constitutes **9.45%** (35% of the 27%) of the total domestic aerosol production, or **378 million** aerosol units containing HFC-152a which is which is only 510% of the GWP of emerging HFO/HFC-134a blends. Even if a small percentage of those total aerosol units were replaced by those blends it would have the opposite effect on what this Act is meant to do.

The industry is growing rapidly thanks to innovations in personal care, recyclability of cans, convenience of use by specialists and experts who recognize the low GWP benefits of HFC-152a; and it is expected to exceed $11 billion by 2024[23]. The threat to this industry will be to its raw material cost of HFO1234ze, and reformulation challenges with end-products. What will result is significant job loss and difficulties for smaller contractors producing higher cost essential products to the average American consumer. As a result, consumers will abandon domestic markets for a cheaper alternative, such as a foreign producer that still uses HFC-152a.

3. Economic consequences of HFC-152a phase-down.

A. Significant cost difference of HFO-1234ze

i. Basic market cost difference, personal care.

HFO's are touted as the next generation of halogenated refrigerants. Only Honeywell, Chemours, and Arkema hold the patents for HFO technology, which prevents any other company from challenging their position (**Table 4**).

Table 4. Patents issued to the main players in the HFO technology.

Company name	Country	Patents total	Process	Usage	Pending
Honeywell	USA	88	77	11	42
DuPont/Chemours	USA	66	52	14	18
Arkema	France	62	50	12	22
Total:		**298**	**179**	**37**	**82**

This is just one reason why the cost of HFO products has been well known to be vastly higher than the HFCs that they are intended to replace.

Today, for example, the market price of HFO-1234ze is around $12.00/kg. While the pricing of HFCs typically range from $4.00 - $8.00 per kg, HFC-152a is at the very bottom. With this simple calculation HFO-1234ze is at least 3 times the price of HFC-152a.Other reasons for this difference are the amount of energy required for production, as well as the multi-step processes used to remove and manage harmful by-products of HFO production.

Given the market price of HFC-152a, the cost of propellant will be just a small fraction of the retail price, but not so for HFO-1234ze.

- **Example of calculation**. If one takes a standard aerosol can, 350 cc (cubic centimeters) and an average amount of the propellant as 25%, then the propellant cost per unit:
  - HFC-152a at $4.00/kg, will be 0.079 kg x $4.00 = **$0.32 per can.**
  - HFO-1234ze at $12.00/kg, will be 0.087 kg x $12.00 = **$1.04 per can.**

Furthermore, based on the demand of HFC-152a for direct-to-consumer aerosols 21,417 MT (Table 2), you would need 23,585 MT of HFO-1234ze. Based on the $8.00/kg price difference, this is a total of $188 million dollars passed on to American consumers per year.

ii. Higher energy consumption

In Appendix A, a comparison is shown of certain HFOs and HFC-152a, listing their consumption of energy and output of notable byproducts. As shown, the acetylene process HFC-152a FCI handles requires only 500 kWh/MT in energy consumption. Meanwhile, its replacement HFO-1234ze uses over 4 times as much, at 2,200 kWh/MT.

Domestic HFO production sites are likely Geismar, LA (Honeywell), Ingleside, TX (Chemours), and potentially Calvert City, KY (Arkema). It is reasonable to assume natural gas is used to power these plants and industrial parks, and so we can very easily expect that for every MT of HFC-152a produced today, there will now be over 4 times more energy used to create its

touted replacement, necessitating much higher cost and strain on American markets. Other HFO products consume even more energy, such as HFO-1234yf at over 10,000 kWh/MT and HFO-1336mzz-Z at 11,228 kWh/MT.

iii. Impurity scrubbing a costly process.

Also shown in Appendix A is the notable by-products of some HFO's, extending from their production process. Since we are comparing HFC-152a to HFO-1234ze, we can see that a huge amount of vinyl chloride is used in HFO-1234ze's process; 550 kg used to make 1 MT. This material is a globally recognized carcinogen and is even regulated by the EPA. Honeywell's patent for HFO-1234ze acknowledges the toxicity of vinyl chloride and described the lengthy purification steps they take to address it.

- Step 1: Caustic scrubbing (reduces Vinyl Chloride from ~500 to ~ 100 ppm)[24]
- Step 2: Acidic scrubbing (further reduces Vinyl Chloride to ~ 28 ppm)[24]
- Step 3: Absorption by activated carbon or zeolites (reduces Vinyl Chloride to less than detection limit by gas chromatography)[25]
    - A total of 3 steps are required to reduce the vinyl chloride levels to less than the detection limit.

This revelation makes it clear why the price of HFO1234ze is so high. Not only is it related to the high energy-cost production process; it is also due to the multi-step purification process they must perform to ensure vinyl chloride will be scrubbed. They can never ignore this step, and therefore we cannot expect economies of scale or increased market supply to stave these extremely high prices. Consumers in the personal care and aerosol industries will feel the brunt of this increased cost.

Finally, if there is any chance of carelessness during any one of these three processing steps, HFO-1234ze would still contain high levels of vinyl chloride, such as 500-100 ppm. When it is used in personal care items like body spray and hairspray, consumers would essentially be applying poison directly to their bodies, as this is a heavily regulated carcinogen. For reference, according to the EPA the maximum contaminant level of vinyl chloride in water quality criteria is only 0.022 µg/L, or 0.022 parts per billion; so for example if vinyl chloride were to remain at 500, the HFO-1234ze would contain 22.7 million times the maximum level.

B. Impact on jobs

The markets currently relying on HFC-152a, such as within the propellant industry (personal care, dusters), and polyurethane foam industries, will be deeply affected by the removal of HFC-152a. As stated, prior, there will not only be cost to changing equipment and reformulation products based on the performance of HFO-1234ze. The costs of the raw material itself will also increase by three times as much, and companies will struggle with sales to consumers. As a result, there is a significant threat for job loss, including union jobs.

In Summary:

A. HFO-1234ze cannot perform as well as HFC-152a.
B. HFO-1234ze uses a huge amount of dangerous raw materials, as well as creates them as byproducts – all of which are under EPA regulation!
C. Higher energy consumption
D. Much more expensive, therefore unaffordable to small businesses.

4. Ideal allowance model for HFC-152a

A. Allowance, especially consumption allowance, based on 2017-2019 market participation will benefit all Americans.

By using the average annual consumption data of years between 2017-2019, the EPA will guarantee that small businesses who have recently begun to use HFC-152a can fairly begin to phase-down. The markets using HFC-152a are fast- growing and using any earlier years would represent an inaccurate picture of the demand, and therefore the supply needed.

Also, by 2017-2019 there have already been several anti-dumping cases issued against high-GWP HFCs such as HFC-134a (1430 GWP), HFC-125 (3500 GWP) and the blend HFC-410a (2088 GWP). HFC-152a was used to replace especially HFC-134a, meaning the HFC-152a participation has been growing steadily into recent years. With those high-GWP products out of the US import market, there is also greater reliance on HFC-152a to satisfy this demand, making it all the more important that allowance is represented accurately using consumption quantities from 2017-2019.

Additionally, it is clear that HFO alternatives require reformulation as well as equipment and packaging changes. Due to the investment and time it would take to calibrate these changes, it would benefit manufacturers to have as much time as possible. As shown in Table 6, the total consumption of HFC's had increased gradually from 2010-2019. The years 2017-2019 would include all of the newest participants in the market, and also leave less room for allocation falling on entities who would not be able to use it. For example, if a company consumed material during the baseline years, but then exited the business, they would qualify for allocation they wouldn't use – while recent participants would be lacking.

Finally, as mentioned in the first stakeholder meeting, there is the threat of certain companies 'gaming the system' such as by using several different names to qualify for the same allocation. This should be investigated to ensure the total consumption data is complete, and allowance is not given disproportionately to those who violate the law or engage in unethical business practices. We look forward to sharing more details about this in a separate correspondence.

Table 6. Total Consumption of HFC (EPA's GHG)

Year	Total Consumption (as GWP)
2010	235,000,000
2011	241,000,000
2012	227,000,000
2013	278,000,000
2014	254,000,000
2015	264,000,000
2016	240,000,000
2017	285,000,000
2018	304,000,000
2019	294,000,000
2020	N/A

5. Conclusion

It is clear that HFC-152a is a uniquely positioned propellant with advantages that sustain several industries and countless jobs. The replacement HFO-1234ze does not meet the criteria listed directly in the AIM Act in Section (e)(4)(B)(i) that states the Administrator will consider, including, "technical achievability, commercials demand, affordability for residential and small business consumers, safety, and other relevant factors including overall economic costs and environmental impacts."

Technical achievability is unattainable because of the different vapor pressure and resulting spray pattern that would make a poor performing aerosol product. Commercial demands are too great, with over 30,000 MT of HFC-152a needed per year, while it is easy to see the affordability is not met at three-times the cost. Lastly, the environmental and health concerns of hydrochloric acid and vinyl chloride continue to pose a risk.

To preserve the advantages of this special HFC, we suggest again exempting it altogether, or placing it on a much slower phase-down schedule. Additionally, delaying the start of the phase-down of HFC-152a by 5 years will allow all new and emergent participants enough time to see the rewards of working to incorporate this low-GWP, non-VOC propellant, at a cost they can offer a competitive product with. If this were to change too quickly, we would risk foreign competitors taking advantage of the market at extremely low prices.

By exempting HFC-152a, it would allow many smaller users to maintain their business, stabilize the economy, and also provide many outlets an alternative to HFOs. As we have demonstrated earlier, the lion's share of patents for HFOs are held by 3 companies (Honeywell, Chemours, and Arkema), preventing other entrants into the market, and creating an oligopoly. Moreover, the exemption would allow environmental agencies the time necessary to better evaluate the potential long-term effects of increased production and exposure to HFO's and the harmful byproducts generated from them.

Lastly, as we have stated, the distribution of allowance must represent accurate market demand and participation. Since 2020 was a special year due to Covid-19, 2017-2019 would pose the best timeline for assessing participants and assigning allowance based on the level of activity.

In Summary, HFC-152a is an undeniable exception and should be phase down separately for its:

A. Low-GWP of 124, already considered a green replacement for other HFC's.
B. Safe raw materials, and lower byproducts
C. Lower energy consumption
D. Lower cost, protecting US companies and jobs.

Best Regards,

Signature: *Michael Valenti*

Name: Michael Valenti

Title: Vice President

Date: 2.25.2021

Signature: *Alexander Oliferenko*

Name: Alexander Oliferenko, PhD.

Title: Innovations Specialist

Date: 2.25.2021

Signature: *Greg Heden*

Name: Greg Heden

Title: Senior Sales & Marketing Manager

Date: 2.25.2021

Signature: *Alex Augatis*

Name: Alex Augatis, PhD.

Title: Marketing Associate

Date: 2.25.2021

References:

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Appendix A. Combined Chemical Chart: HFO and HFC-152a processes.

HFO Product	Manufacturer	Annual capacity, MT	Chemical reaction steps	Raw materials per MT	Power, kWh/MT	By-products per MT HFO
HFO-1234yf 2,3,3,3-tetrafluoropropene	ShanDong HuaAn New Material Co.,Ltd.	5,000	1) CCl2=CClCH2Cl (HCC-1230xa) + 3HF→ CF3CCl=CH2 (1233xf) + 3HCl 2) CF3CCl=CH2+ HF→ CF3CFClCH3 (1244bb) 3) CF3CFClCH3 → CF3-CF=CH2 (HFO-1234yf) + HCl	HCC-1230xa 1.59 MT HF 0.71 MT	>10,000	HCl 3.96 MT
HFO-1234yf 2,3,3,3-teirafluoropropene	Arkema (Changshu) Fluorochemical Co., Ltd.	10,000	1) CF2=CF-CF3 (HFP)+ H2 → CHF2-CHF-CF3 2) CHF2-CHF-CF3+KOH → CHF=CF-CF3+KF+H2O 3) CHF=CF-CF3+ H2 → CH2F-CHF-CF3 4) CH2F-CHF-CF3+KOH→ HFO-1234yf+KF+H2O	HFP 1.351 MT KOH 50% 0.129 MT Ca(OH)2 0.523 MT	4,000	CaF2 1.0 MT KOH 3.4 MT HF 0.4 MT
HFO-1234ze cis-1,3,3,3-tetrafluoropropene	ShanDong HuaAn New Material Co., Ltd.	2,000	1) Vinyl Chloride+CCl4→CCl3-CH2-CHCl2 (HCC-240fa) 2) CCl3-CH2-CHCl2 (HCC-240fa) + 4HF → HFO-1234ze+5HCl	Vinyl chloride 0.55 MT CCl4 1.35 MT HF 0.7 MT	2,200	HCl 3.34 MT
HCFO-1233zd-E trans-1-chloro-3,3,3-trifluoropropene	ShanDong HuaAn New Material Co., Ltd.	3,000	1) Vinyl Chloride+CCl4→CCl3-CH2-CHCl2 (HCC-240fa) 2) CCl3-CH2-CHCl2 (HCC-240fa) +3HF→ HCFO-1233zd-E + 4HCl	Vinyl chloride 0.55 MT CCl4 1.35 MT HF 0.7 MT	2,200	HCl 4.78 MT
HCFO-1233zd-E trans-1-chloro-3,3,3-trifluoropropene	JV Honeywell Sinochem Lantian New Materials Co.	10,000	HCFO-1233zd-E & HFC-245fa co-production： 1) Vinyl Chloride+CCl4→CCl3-CH2-CHCl2 (HCC-240fa) 2) HCC-240fa +3HF→HCFO-1233zd-E + 4HCl Side reaction: HCFO-1233zd-E+2HF→HFC-245fa+HCl	Vinyl Chloride 0.48 MT CCl4 1.18 MT HF 0.46 MT	3,000	HCl 3.61 mt HF 0.09 MT 245fa 0.4 MT
HFO-1336mzz-Z 1,1,1,4,4,4-hexafluoro-2-butene	Changshu 3F Zhonghao New Chemical Materials (Chemours JV)	5,000	1) CF3-CCl3 (CFC-113a) → CF3CCl=CCClF3 2) CF3CCl=CCClF3+H2 → CF3-C=C-CF3	CFC-113a 3.6 MT	11,228	HCl 5.4 MT 143a 0.14 MT TFA 0.048 MT KCl 0.517 MT
HFC-152a 1,1-difluoroethane	Acetylene process product handled by FCI	50,000	1) CH≡CH (Acetylene) + 2HF → CH3-CHF2	Acetylene 0.394 MT HF 0.606 MT	500	HF 0.06 MT
HFC-152a 1,1-difluoroethane	Chemours Corpus Christi plant	20,000	1) Vinyl Chloride + HF → CH3-CHClF 2) CH3-CHClF + HF → CH3-CHF2 + HCl	Vinyl Chloride 0.95 MT HF 0.6 MT	~2,000	HCl 1.1 MT

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/11/2021 4:10:29 AM
To: Grundler, Christopher [grundler.christopher@epa.gov]
Subject: RE: draft Revised CSAPR Update Rule (Preamble) for Your Review

OK. Unfortunately, between my regularly scheduled meetings and an ongoing fire drill over motion practice in the ACE litigation, there was no way for me to meet the deadline and tomorrow is no better.

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Wednesday, February 10, 2021 11:06 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Re: draft Revised CSAPR Update Rule (Preamble) for Your Review

ummm.....it would be disruptive only if it results in inspiring a better idea.

Ex. 5 Deliberative Process (DP)

C

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
(202) 343-9140 (Office)
(734) 645-5221 (Mobile)

On Feb 10, 2021, at 10:54 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Would it be a complete waste of time/disruption if I read this over the weekend? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Wednesday, February 10, 2021 10:47 PM
To: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: Re: draft Revised CSAPR Update Rule (Preamble) for Your Review

Thx for the quick review, and I apologize for the compressed timetable. We will let you know if we have any questions about your comments.

Chris

_____
Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
(202) 343-9140 (Office)
(734) 645-5221 (Mobile)

On Feb 10, 2021, at 10:41 PM, Carbonell, Tomas <Carbonell.Tomas@epa.gov> wrote:

Carbonell, Tomas has shared a OneDrive for Business file with you. To view it, click the link below.

<image00001.png> Draft for OAR-IO review_Final Revised CSAPR Update_preamble_02.08.21 Comments.doc

Dear Chris,

Thanks so much to you and the dedicated team who worked on this – I thought the preamble looked great. I've offered just a couple of minor comments for your consideration. I would happy to discuss tomorrow if that would be helpful. Best,

Tomás

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 8, 2021 12:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>

Cc: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: draft Revised CSAPR Update Rule (Preamble) for Your Review

Joe and Tomás:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/3/2021 2:56:05 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]

Subject: Accepted: 2015 Ozone Transport Strategy and Overview
Location: Microsoft Teams Meeting

Start: 3/3/2021 6:15:00 PM
End: 3/3/2021 7:15:00 PM

Recurrence: (none)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/24/2021 3:46:54 AM
To: Lambert, Kathleen Fallon [klambert@hsph.harvard.edu]
Subject: RE: Letter to the record for House Energy Subcommittee hearing

Hi, Kathy. Thanks so much for looping me in on this; it's great that you sent this letter to House Energy leadership. I will inquire with colleagues here as to whether they would benefit from a briefing. Great work, in any event.

Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Lambert, Kathleen Fallon <klambert@hsph.harvard.edu>
Sent: Tuesday, February 23, 2021 8:50 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Letter to the record for House Energy Subcommittee hearing

Dear Joe,

I am reaching out to share a letter to the record that Dr. Charley Driscoll and I submitted last week for the House Energy and Commerce Subcommittee hearing on "A Smarter Investment: Pathways to a Clean Energy Future". We would be happy to answer any questions or brief EPA officials on this work. Two of the key take-aways are:

Reaching Zero Emissions in the Electricity Sector is Achievable at Modest Costs
The Clean Energy Futures project shows that several clean energy policies, including clean energy standards, carbon prices, and a national cap and trade policy can achieve low or zero carbon emissions in the electricity sector using existing technology at a cost of only about 15% above baseline.

Clean Energy Delivers Climate and Health Benefits That Far Outweigh Policy Costs
All of the clean energy policies that we examined deliver climate benefits that exceed policy costs. In addition, virtually the entire coterminous U.S. is projected to experience better air quality. Improvements are most striking in the eastern U.S., particularly in areas experiencing chronic air quality impairment. For a 100% Clean Energy Standard by 2040 approximately 11,000 premature deaths could be avoided annually in 2030.

Kathy Fallon Lambert
Senior Advisor, Center for Climate, Health and the Global Environment (C-CHANGE)
Harvard T.H. Chan School of Public Health
Co-founder, Science Policy Exchange
Tel. 802-436-1000
Twitter @kflambert
skype name kathleen.lambert31

For information and updates on the Transportation, Equity, Climate and Health (TRECH) Study, visit:
https://www.hsph.harvard.edu/c-change/news/trechstudy/

For stories of climate hope and action, subscribe to *The Climate Optimist* newsletter: https://hsph.me/ClimateOptimist

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/26/2021 2:03:37 AM
To: Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
CC: Rachel Miller [rmiller@forbes-tate.com]
Subject: FW: Honda meeting
Attachments: Honda Follow Up Letter on EVs.pdf

Looping in our scheduler, Delaney. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Rachel Miller <rmiller@forbes-tate.com>
Sent: Thursday, February 25, 2021 9:01 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Honda meeting

Joe—

Wondering if I could bring the Honda team in to follow up on tailpipe GHG standards conversations? Let me know if you want me to follow up with your scheduler.

Thanks,

Rachel

Rachel Miller
Forbes Tate Partners
2026413046

HONDA

American Honda Motor Co., Inc.
1001 G Street, N.W. Suite 950
Washington, D.C. 20001
Phone (202) 661-4400
Fax (202) 661-4469

February 17, 2021

Ms. Gina McCarthy
National Climate Advisor
Executive Office of the President
1650 Pennsylvania Avenue, NW
Washington, D.C. 20504

Mr. Brian Deese
Director
National Economic Council
1650 Pennsylvania Ave., NW
Washington, D.C. 20504

Dear Ms. McCarthy and Director Deese:

Thank you for recently meeting with me to discuss vehicle greenhouse gas (GHG) emissions standards and electrification. We appreciate the opportunity to share Honda's perspective on actions that the Biden Administration can take to achieve both near-and long-term success, as we move towards a zero-emissions future. As I stressed in our meeting, we believe that aligning near-term federal greenhouse gas emissions and fuel economy standards with the California Framework standards will provide the Administration an immediate policy win and allow the Administration to focus on developing long-term GHG emissions standards that will pave the way for an all-electric future.

Vehicle electrification is central to Honda's goal to achieve carbon neutrality by 2050, and we are striving to have two-thirds of our global new auto sales be electrified vehicles by 2030. We welcome the Administration's strong support for electrification, and as a follow up to your question regarding policies that can spur electrification, we wanted to provide you some additional recommendations. This is not an exhaustive list but one that focuses mostly on near term actions that can act as catalysts to advancing electrification in the United States. Moreover, while automakers play a substantial role in electrification, government, utilities, and other stakeholders must take collective action to ensure widespread adoption.

Expand U.S. Manufacturing

Honda has the longest sustained presence in the United States of any international automobile manufacturer. What began in 1959 as a storefront in California is today 75 facilities across the U.S. supporting our manufacturing operations and employing more than 31,000 associates. These include 12 manufacturing plants in six states across the country. As of 2019, Honda's cumulative capital investment in the United States is $21.8 billion across all product lines, including $5.6 billion in new capital investment in the past five years.

The cost of retooling and retrofitting existing manufacturing facilities and building new factories is considerable, requiring additional investments in the hundreds of millions of dollars. Providing auto and component manufactures assistance in converting or expanding existing U.S. factories and building new ones will help expand U.S. manufacturing of alternative fuel vehicles, create jobs, and enhance U.S. competitiveness in the development and production of advanced vehicle technologies. This could be done through federal tax credits, such as expanding the 48C Advanced Energy Manufacturing Technology Credit, federal grants and loan guarantee programs, such as the Department of Energy Loan Office and Advanced Technology Vehicle Manufacturing programs.

In addition to our 12 manufacturing facilities, Honda operates 14 R&D facilities in the U.S. and invests more than $1 billion annually in R&D in the U.S. Resource management and strategic investment have never been more challenging or more important. The existing R&D tax credit is a powerful tool that has helped spur the research and development of advance vehicle technologies, including electrification.

Such R&D incentives should be enhanced in the near term to speed innovation in vehicle technology and performance, particularly a reduction in vehicle battery costs while improving battery range and life cycle – critical barriers to the deployment of electric vehicles.

Electric Vehicle Incentives

Point of sale purchase incentives and federal tax credits are powerful instruments to assist consumers in adopting newer technologies as we work to scale the market and achieve economies of scale. Two federal consumer tax credits that are important to expanding electric vehicle sales are the **30D Plug-in Electric Vehicle credit and the 30B Fuel Cell Vehicle Credit.**

The current 200,000 per manufacturer cap under the 30D credit should be increased to allow consumers access to more vehicle choices and ensure that the credit remains available until there is greater consumer adoption and market penetration of electric vehicles. Conversely, the 30B fuel cell vehicle credit is among a host of tax credits that must be renewed by Congress annually, and in recent years, the 30B credit has been allowed to lapse and then retroactively reinstated with the occasional one year forward extension. This creates a disparity among electric vehicle technologies. The 30B fuel cell vehicle credit should be extended long-term to ensure that consumers consistently have access to the credit as they determine which electrified vehicle technology is best suited for their needs. Additionally, consideration should be given to creating an incentive for previously owned electric vehicles to help expand access to an important segment of drivers, those who can only afford to or prefer to purchase used vehicles. The incentive should be limited and not available in perpetuity.

Multipliers for the sale of electric vehicles within the EPA vehicle greenhouse gas emissions program help stimulate the production of these vehicles. These meaningful multipliers should be restored within the program without any phasedowns through model year 2026. These multipliers could be capped to prevent undue erosion of GHG reductions. Another incentive on the vehicle production side is the zero gram per mile treatment for electric upstream emissions. This treatment should be permanent since automakers do not have any control over the source of electricity powering the vehicle. These policy levers will enable and accelerate a successful transition towards an all-electric future.

EV Infrastructure Installation and Buildout

Current studies[1] show that 80 percent of electric vehicle charging will occur while at home. For many consumers home installation costs will go beyond just the purchase and installation of the charger and the wiring to the charger and may include upgrading the home's electrical panel to have the necessary electric capacity available, especially when installing Level 2 charging equipment. Therefore, providing consumers with a federal incentive to offset the costs of installing home charging is important to driving electric vehicle adoption.

However, consumers also need confidence in the availability of publicly accessible charging equipment within and beyond their communities so that they can conveniently charge outside the home and travel with their vehicle. Auto manufacturers are working to increase vehicle range and battery technology will continue to improve; however, range anxiety will persist absent a robust national network of convenient and publicly accessible charging stations and hydrogen fueling stations in the same way that drivers can readily find a gas station today.

[1] https://www.energy.gov/eere/electricvehicles/charging-home

To assist in the installation of electric vehicle supply equipment (EVSE) and the nationwide buildout of electric vehicle charging stations and hydrogen refueling stations, we believe that a menu of incentive options should be available, including tax incentives, grants and rebates.

30C Alternative Fueling Infrastructure Credit: There are several improvements to the existing 30C Alternative Fuel Infrastructure credit that could increase its utilization. First, long term extension of the 30C credit to provide both homeowners and businesses the certainty of its availability. The 30C credit is also among the tax credits that must be renewed annually and has been allowed to expire and retroactively reinstated. The disruption and inconsistency of its availability may act as a deterrent, as consumers when considering an electric vehicle purchase are not guaranteed that it will be available or as private sector entities plan to make infrastructure investments. Second, increase the maximum dollar amount, which is currently capped at $30,000 per site, to accelerate the build out of publicly accessible charging and hydrogen refueling stations.

Federal grants and rebates: Provide federal funding through grants or federal rebates to state, local and tribal governments, individuals, private entities, non-profits, and consortia to buildout publicly accessible charging and install EVSE. To encourage the widest deployment of public charging stations, federal funding should be available to install EVSE at multi-unit dwellings, commercial sites and workplaces, community parking garages and lots, and on highways. Funding should also be allocated to build hydrogen refueling stations in and around communities across the country.

Multi-unit dwellings: While we noted multi-unit dwellings should have access to federal grants and rebates, it is important that dedicated attention is given to them in efforts to build out home and more publicly accessible charging. Urban areas and communities that are disproportionately impacted by air pollution tend to have the highest concentration of multi-unit dwellings. Charging at home is the most convenient and less expensive "refueling" option; however, it has been mainly enjoyed by single-family homeowners. Many barriers exist for tenants, one of which is the right to have charging equipment installed to their assigned parking spot if they can afford the expense. Therefore, providing tenants the right to charge, as well as publicly accessible spots on the premise and nearby will improve access and adoption among those living in multi-unit residential dwellings. Moreover, there is a higher rate of used car ownership among residents who live in multi-unit dwellings than in single family homes. As previously suggested, consideration should be given to creating a limited incentive for the purchase of used electric vehicles to provide all consumers with access to cleaner transportation alternatives and zero emission vehicles.

Highway charging: Installation of charging on highways should prioritize DC Fast Charging to ensure the drivers can rely on access to charging equipment that allows them to fully charge quickly, requiring only brief stops. Again, this will help alleviate range anxiety, a key barrier to consumer adoption of electric vehicles. Consumers must be assured they are able to utilize the full utility of an electric vehicle, including being able to drive it anywhere, anytime. Additionally, DC Fast Chargers should have the capability to charge at speeds between 150-350 kilowatts to meet the demands of emerging vehicle technology so as not to risk stranded assets in the future as vehicle batteries evolve.

EV Ready/Readiness in new construction: Consideration should be given to creating an EV-ready standard for new residential and commercial construction and for substantial renovations requiring electrical panel alterations. For new residential dwellings with dedicated off-street parking, an EV-ready standard would ensure that the appropriate electric load and necessary hardware connections are installed during construction, reducing the cost of installing future home charging equipment by eliminating retrofitting costs. For multi-unit dwellings with parking lot or garage spaces and commercial buildings, an EV-ready standard would dedicate a percentage of parking spots to be EV ready. This would help accelerate the availability of public charging stations as we move towards an all-electric future.

Long term there should be **alignment of cable standard/charging plugs** to ensure one U.S. standard for publicly accessible EVSE so that a driver is assured the ability to charge at any public charging station in the U.S. This should be particularly true for DC Fast Chargers receiving federal grants or rebates, which will also help reduce potentially stranded assets in the future.

Closing

Many of the recommendations we have shared are included or align with proposals in the President's Build Back Better Plan, and Honda welcomes the opportunity to work with the Administration on these proposals. We also recognize that many of these recommendations require Congressional action and some are already enumerated in legislative proposals, and we are working with Congress to advance them. Lastly, we are also working with states to adopt similar proposals that support the growth of zero emission vehicle markets.

A zero emissions future is no longer a matter of if but when. At Honda, we believe a successful path forward includes near-term vehicle GHG standards that are aligned with the California Framework, robust policies to expand U.S. manufacturing of electric vehicles and electric vehicle components, combined with expanded incentives to spur consumer adoption of EVs and the buildout of EV infrastructure. Most importantly, success will require collective action among all stakeholders, including industry and government.

Thank you for your consideration of our views. Please do not hesitate to contact me or Jennifer Thomas, Vice President of Government and Industry Relations, at 202.841.9188 should have any questions.

Sincerely,

Rick Schostek
Executive Vice President

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/9/2021 1:57:52 PM
To: DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
CC: Millett, John [Millett.John@epa.gov]
Subject: RE: Politico press inquiry

Looks fine here. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Sent: Tuesday, March 9, 2021 8:55 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>
Cc: Millett, John <Millett.John@epa.gov>
Subject: Politico press inquiry

Hi all,
We have a press inquiry from Politico asking about last week's letters regarding the withdrawal of several petition denials. Please see incoming and draft below and let me know if you have concerns.

Thanks,
Isabel

Incoming from Politico
The withdraw of the denial: https://www.biologicaldiversity.org/programs/climate_law_institute/pdfs/21-03-05-Decision-Withdrawing-Denial.pdf
The Center for Biological Diversity says EPA has undone the Jan. 19 denial of its petition to regulate greenhouse gases under the NAAQS program. They shared a Jan. 19 letter that also denied petitions from the Institute for Policy Integrity to regulate GHGs under Section 115 of the Clean Air Act and another from Food & Water Watch seeking Section 112 regulation of GHGs.

1. Is it true that EPA has "un-denied" the CBD petition?
2. Has EPA done the same for the IPI and FWW petitions?
3. Some of those petitions had been pending for many years. Does EPA have concrete plans to act on them in the Biden administration's first term? Will they be addressed as part of the response to the remand of the ACE rule?
4. Were any other petitions on any subject denied in the final weeks of the Trump administration?

Draft response
As the March 4th letter you reference noted, the EPA has withdrawn the denial of the CBD and 350.org petition and intends to further consider the important issues raised in the petition before responding. EPA has sent similar letters to IPI and FWW regarding the other petitions you mentioned. EPA will follow the science and law in accordance with the Biden-Harris Administration's executive orders and other directives in reviewing all of the agency's actions issued under the previous Administration to ensure that they protect public health and the environment.

Isabel DeLuca
Office of Air and Radiation, US EPA
(202) 343-9247

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/2/2021 12:49:58 AM
To: Shane Karr [roger.karr@stellantis.com]
Subject: RE: EMBARGOED: CSAR Statement

Again, Shane, this is excellent news. I appreciate both the outcome and the heads-up. Looking forward to making progress with you on this. Thank you.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Shane Karr <roger.karr@stellantis.com>
Sent: Monday, February 1, 2021 7:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: EMBARGOED: CSAR Statement

Hi Joe:

Per our conversation, the below statement will be released at 7 am tomorrow by the Coalition. Wanted you to have it in advance but please embargo until the release time. Thank you.

Shane

"The Coalition for Sustainable Automotive Regulation (CSAR) chose to intervene in a lawsuit between California and the federal government to support a unified fuel economy and greenhouse gas (GHG) program. We are aligned with the Biden Administration's goals to achieve year-over-year improvements in fuel economy standards that provide meaningful climate and national energy security benefits, reduce GHG emissions and promote advanced technologies. In a gesture of good faith and to find a constructive path forward, the CSAR has decided to withdraw from this lawsuit in order to unify the auto industry behind a single national program, with ambitious, achievable standards."

--

STELLANTIS

Shane Karr
Mobile: 202-360-1187
shane.karr@stellantis.com

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/9/2021 4:10:48 AM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: FW: Seeking approval for five OAQPS "frozen" actions
Attachments: 1-BP Status February 2021.docx; Primary Copper RTR-OMB-Non-Sig-Request-01-08-2021.doc; Half-pager-Primary-Copper-RTR-2-4-2021 REV2.docx; SSM ministerial action OAR.2.8.21 rev.docx; OP pager ME Section 176A Petition_2021_0106_3.docx; LandfillsCorrSummary.OAR.2.8.2021 rev2.docx

Any views on any of these? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Koerber, Mike <Koerber.Mike@epa.gov>
Sent: Monday, February 8, 2021 4:53 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Senter, Stephen <Senter.Stephen@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Cozzie, David <Cozzie.David@epa.gov>
Subject: Seeking approval for five OAQPS "frozen" actions

Joe: As mentioned on today's OAQPS Weekly, I am seeking your approval to move forward with five OAQPS regulatory actions currently subject to the January 20th regulatory freeze memo, which paused promulgation of regulations in the Federal Register until new agency heads and teams have an opportunity to review them. Here are the five actions, along with a short description of each (see also attached background papers).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 5:16:34 PM
To: Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: Invitation to Speak at AHAM Annual Meeting

Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Sent: Monday, March 1, 2021 12:08 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: Invitation to Speak at AHAM Annual Meeting

I'll see if CPPD or SPD have availability. We can let you know at OAP Weekly.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Monday, March 01, 2021 11:57 AM
To: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: Invitation to Speak at AHAM Annual Meeting

Should we offer someone else instead? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Sent: Monday, March 1, 2021 11:56 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: Invitation to Speak at AHAM Annual Meeting

Consensus from OAP is this should not be a priority for you. Happy to elaborate further at the OAP Weekly if needed.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Monday, March 01, 2021 8:24 AM
To: Grundler, Christopher <grundler.christopher@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: FW: Invitation to Speak at AHAM Annual Meeting

Thoughts? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Messner, Kevin <KMessner@AHAM.org>
Sent: Friday, February 26, 2021 4:15 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Cleary, Jennifer <jcleary@AHAM.org>
Subject: Invitation to Speak at AHAM Annual Meeting

Welcome back to EPA. Hope all is going well. I wanted to reach out to you and see if you would be willing to speak at our Annual Meeting. The Association of Home Appliance Manufacturers is having its annual meeting virtually this year. The theme is "Home Reimagined" and it would be great if you could speak in the afternoon on April 20, 2021, to discuss in EPA's current direction in home appliance related policy.

As a reminder, AHAM is the leading voice for the home appliance manufacturers. Through its leadership in public policy, regulations, standards and research, AHAM helps manufacturers bring efficient, high-performing home appliances into the homes of consumers in the United States, Canada and around the world. AHAM regularly works with EPA officials on a number of issues within the Air Office, and we look forward to continuing that working relationship.

AHAM's members would benefit from hearing directly from you about the latest issues affecting their industry, such as ENERGY STAR®, climate-related policy (HFCs), Indoor airPLUS, and any other current and future projects that could affect home appliance manufacturers. It would be great if you would be able to speak virtually at our annual meeting.

Thanks for your consideration of this invitation. We except approximately 200 attendees on April 20 at 4:15 p.m. during a 40 minute block on environmental policy. You could plan for your remarks to take approximately 20-25 minutes followed by a 10 minute question and answer session using the Zoom platform. If you are able to accept this invitation, we will work with your office to coordinate the details, and provide the Zoom login details shortly. I am happy to answer any questions you may have.

Thank you and I look forward to working with you!

Kevin Messner
Senior Vice President, Policy & Government Relations
Association of Home Appliance Manufacturers
1111 19th Street NW, Suite 402, Washington, DC 20036
t 202.872.5955 ext. 353 *m* 530.309.5629 *f* 202.872.9354 *e* kmessner@aham.org

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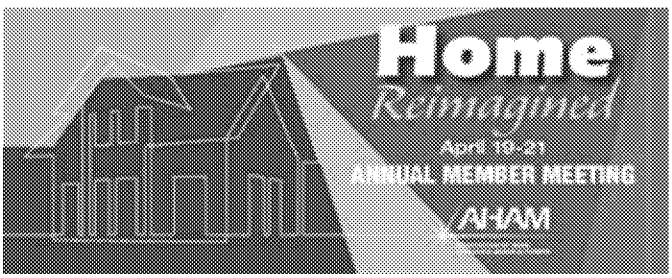

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Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/2/2021 12:25:05 AM
To: Grundler, Christopher [grundler.christopher@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Harvey, Reid [Harvey.Reid@epa.gov]; Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: RE: 2020 Power Plant Data are In and Ready to be Posted

Thanks very much, Chris. Appreciate seeing this.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 1, 2021 11:27 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Cc: Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: 2020 Power Plant Data are In and Ready to be Posted

Joe and Tomás:

Ex. 5 Deliberative Process (DP)

Hope this information is useful and please let us know if you want more specifics.

Chris

Christopher Grundler, Director

Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/8/2021 2:20:11 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]

Subject: Accepted: Determinations of Attainment by the Attainment Date and Reclassifications for the 2008 and 2015 Ozone National Ambient Air Quality Standards
Location: Microsoft Teams Meeting

Start: 3/18/2021 3:00:00 PM
End: 3/18/2021 3:45:00 PM

Recurrence: (none)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 5:00:19 PM
To: Kim, Eun [Kim.Eun@epa.gov]
CC: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: FW: For Mar. 3 Discussion: GHG Biden Letter Final, Jan 25 2020
Attachments: Ext. Comm. - Letter - 2021 - GHG Biden Letter Final Jan 25 2020.pdf

Please add this to my READING for Tuesday evening. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Julia Rege <Jrege@autosinnovate.org>
Sent: Monday, March 1, 2021 11:24 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: David Schwietert <dschwietert@autosinnovate.org>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>
Subject: For Mar. 3 Discussion: GHG Biden Letter Final, Jan 25 2020

Acting Assistant Administrator Goffman,

In advance of our call on Wednesday, I am providing Auto Innovator's letter to the President on GHG standards. Hopefully this has already made its way to you, but we thought it would be helpful to ensure you had a copy in advance of Wednesday's discussion.

We look forward to our discussion, and also to debriefing from the meeting held with our Board of Directors last week.

Please let us know if you need anything else in advance of our call.

Best, Julia

Julia M. Rege
Vice President, Energy & Environment
O: 202.326.5559 M: 202.436.2266
jrege@autosinnovate.org
Alliance for Automotive Innovation
1050 K Street, NW - Suite 650, Washington, DC 20001
autosinnovate.org - twitter - linkedin

ALLIANCE FOR AUTOMOTIVE INNOVATION

ALLIANCE FOR AUTOMOTIVE INNOVATION

January 25, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President,

I write on behalf of the Alliance for Automotive Innovation, which represents auto manufacturers that produce 99 percent of the cars and light trucks sold in the United States, as well as major automotive suppliers and technology companies. The U.S. auto industry is the largest manufacturing sector and spends more non-governmental dollars on research and development than any other sector of the economy. This tremendous investment is responsible for 5.5 percent of our nation's GDP and supports 10 million jobs in the auto sector. Without question, the industry's growth and success over the past decade is due in no small measure to your leadership in our recovery from the Great Recession.

Last year, the U.S. auto industry faced unprecedented production and sales set-backs due to the COVID pandemic. Despite the uncertainty amid the public health and economic crisis, each of our member companies and workers made important contributions to helping people most in need, while continuing to invest in new technology and in American manufacturing and jobs. While the 2021 outlook is more optimistic, the COVID pandemic will continue to present challenges to our industry and the global economy.

The U.S. auto industry is aligned with your Administration's goals to achieve net-zero carbon transportation and shift to electric-drive vehicles. We deeply appreciate your clear goal to greatly expand charging and hydrogen-fueling infrastructure, which are necessary components for expanding the sales of electric and hydrogen-fueled vehicles. We look forward to working with your Administration as you take steps to expand infrastructure and other critical efforts to help realize an electric-drive future. Like you, we share the view that regulatory certainty and innovation can lead to reduced greenhouse gas (GHG) emissions, bolster American jobs, and increase America's global competitiveness.

In order to further reduce near-term carbon emissions, we would like to work with your Administration on a new framework to promptly reestablish a national program for automobile GHG emissions that includes California and all other states. Such an outcome can achieve greater environmental improvements than current requirements, while providing benefits for consumers, creating opportunities for job creation, and strengthening our nation's economy.

What unites our industry in pursuing a revised national program is a simple premise – a resolution that has the support of all stakeholders could set the industry on an accelerated path for reducing GHG emissions, build a robust market for electric vehicles, and resolve on-going litigation. Addressing such near-term issues will provide regulatory clarity, advance our shared environmental goals, and lay the foundation for future efforts.

1050 K Street, NW | Suite 650 | Washington, DC 20001 | AutosInnovate.org

The auto sector would welcome the opportunity to discuss our thoughts in greater detail with you and your senior team. As your Administration works to outline key legislative and regulatory priorities, our industry is united in its desire to work collaboratively with you to achieve the following objectives:

- A revised national program that includes California, brings all automakers under a unified set of common requirements and ensures a level, competitive playing field;
- This program should achieve improvements in GHG emissions roughly midway between current standards and those of the former Obama Administration, and balance environmental progress, safety, affordability, innovation, and jobs; and
- This revised, industry-wide national program should take the opportunity to modernize the current regulatory approach to focus on GHG emissions, which presents one of the most pressing environmental policy goals the nation faces. It should also support vehicle electrification in the market, with a range of compliance incentives, including expanded multipliers for electrification, and reforms that will be complemented by other important federal, state, and local investments and policies that support the transition to a zero-emission future.

By fueling innovation and driving manufacturing improvements, we can work together to protect the environment and grow the economy. With your leadership, we believe a collaborative effort built on a collective industry commitment would be a significant environmental and economic achievement for our country. This approach would also help modernize the current regulatory structure and propel our industry and workforce as we continue to make substantial investments in technologies that lead to a cleaner, safer and smarter future.

As a united auto industry, we stand ready to work with you and your staff to put in place the near-term steps that set the course toward a zero-emission future.

Sincerely,

John Bozzella
President and CEO

CC Gina McCarthy, National Climate Adviser
Brian Deese, National Economic Council

American Honda Motor Co. Inc.
Ford Motor Company
Hyundai Motor America
Kia Motors America
Mitsubishi Motors North America, Inc.
Nissan North America, Inc.
Stellantis
Toyota Motor North America, Inc.
Volvo Car USA, LLC
BMW of North America, LLC
General Motors Company
Jaguar Land Rover North America, LLC
Mazda North America Operations
Mercedes-Benz USA, LLC
Porsche Cars North America, Inc.
Subaru of America, Inc.
Volkswagen Group of America

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/1/2021 11:31:18 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: FOR YOUR APPROVAL: FR Notice for Final CAA section 609 Regulation

Thank you; and thank you for, as I infer, sparing us both the "experience" of your trying to explain the answer to my "?".

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Monday, February 1, 2021 6:29 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: FOR YOUR APPROVAL: FR Notice for Final CAA section 609 Regulation

I've spoken with his Deputy this evening. I believe it has been addressed.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Monday, February 1, 2021 6:26 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: FOR YOUR APPROVAL: FR Notice for Final CAA section 609 Regulation

Thanks, Ann. No need for a briefing; let's proceed as you outline – although I perceive a disconnect between what you outlined, and Chris' note, which suggests that I could just send the 1-pager he attached to OP. So, ? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Monday, February 1, 2021 6:22 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FOR YOUR APPROVAL: FR Notice for Final CAA section 609 Regulation

Joe, the attached provides background on the Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing Final Rule. This rule was signed in the previous Administration. Let me know if you approve this action moving forward for re-signing or if you would like to be briefed. If you are comfortable proceeding, I will have the program prepare the package for the Acting Administrator's signature, including an action memo, which you would sign, recommending the Acting Administrator's signature.

Ann (Campbell) Ferrio

Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 1, 2021 4:11 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FR Notice for Final CAA section 609 Regulation

Joe -
We are asking you to forward the attached summary of a final rule to OP, and let them know you are ok for the FRM to proceed to the FR Office. This final rule is under CAA section 609, and incorporates by reference the latest SAE standards for equipment that recovers, recycles, and/or recharges the refrigerant hydrofluoroolefin (HFO)-1234yf or R-1234yf. This rule will point to appropriate industry standards for designing R-1234yf recovery, recycling, and/or recharge equipment.

This is a non-significant regulatory action that enjoys the support of the auto industry. (Notably, the National Automobile Dealers Association (NADA) also commented that since R-1234yf is not an ODS, CAA section 609 did not give EPA authority to mandate equipment purchase and use).

We anticipate little to no reaction from the public and environmental stakeholders.

For your convenience, below is a draft note you could use to send to Vicki. Please let me know if you have any questions.

Chris

****

Vicki:

The attached action, SAN 5206 – Final Rule - Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing, is approved for FR publication. It incorporates by reference the latest industry standards for equipment that recovers, recycles, and/or recharges the refrigerant hydrofluoroolefin (HFO)-1234yf or R-1234yf.

Thanks,

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/12/2021 3:37:46 PM
To: Arroyo, Victoria [Arroyo.Victoria@epa.gov]
Subject: FW: Text re EJ from RCU

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Friday, February 12, 2021 8:53 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: Text re EJ from RCU

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
(202) 343-9140 (Office)
(734) 645-5221 (Mobile)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/17/2021 3:25:25 PM
To: Grundler, Christopher [grundler.christopher@epa.gov]
Subject: Re: another bundle to take to MR could be Kigali/AIM/International Climate stuff

Exactly

Sent from my iPhone

On Feb 17, 2021, at 10:18 AM, Grundler, Christopher <grundler.christopher@epa.gov> wrote:

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/3/2021 2:24:28 PM
To: Nishida, Jane21 [ActAdmJ21Nishida@epa.gov]

Subject: Accepted: Briefing: Bilateral Climate Priorities and POTUS Leaders Summit
Location: Microsoft Teams Meeting

Start: 3/5/2021 7:30:00 PM
End: 3/5/2021 8:00:00 PM

Recurrence: (none)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/12/2021 2:33:44 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Subject: Fwd: Meeting Request from API

Sent from my iPhone

Begin forwarded message:

From: Will Hupman <HupmanW@api.org>
Date: February 12, 2021 at 9:23:08 AM EST
To: "Goffman, Joseph" <Goffman.Joseph@epa.gov>
Cc: Howard Feldman <Feldman@api.org>, John Wagner <Wagner@api.org>
Subject: Meeting Request from API

Mr. Goffman – Congratulations on your return to EPA. Howard, John (copied here), and I had the opportunity to join a call with you, Cynthia Giles, and Alejandra Nunez the day after Thanksgiving in your role on the transition team.

I'm reaching out to see if you and/or the appropriate folks on your team would be available to talk with API and its member companies on a handful of issues? We are hoping to discuss Methane, Ozone & PM NAAQS, Social Cost of Carbon, Environmental Justice, the Cost-Benefit Rule, and any other issues where we can be helpful.

Would you have any availability to do a virtual meeting with us during the weeks of Feb. 22 – 26 or March 1 – 5? We will of course work around your schedule and can be flexible on technology platforms. Thank you for your consideration of this request. Please let me know if I can provide any additional information or materials in advance of our discussion. Have a great weekend!

Will

Will Hupman
Director – Federal Affairs
o: 202.682.8396
m: 202.615.7192
e: hupmanw@api.org
American Petroleum Institute

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/26/2021 1:17:36 AM
To: Garbow, Avi [Garbow.Avi@epa.gov]
CC: Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Fwd: Meeting Request on Aviation Emission Issues
Attachments: AIA Sustainability Letter for Biden Administration - 2.11.2021.pdf; AIA statement on nvPM implementation.pdf

Avi - OAR will take care of responding (and copy you). Let us know if you want to attend the eventual meeting. Thanks

Sent from my iPhone

Begin forwarded message:

From: "Pagano (US), Peter A" <peter.a.pagano@boeing.com>
Date: February 25, 2021 at 2:02:48 PM EST
To: "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>
Cc: "Hyde, David" <david.hyde@aia-aerospace.org>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Rakosnik, Delaney" <rakosnik.delaney@epa.gov>
Subject: Meeting Request on Aviation Emission Issues

Dear Mr. Goffman and Mr. Garbow:
The purpose of this message is to request a meeting with you both on behalf of Boeing and the Aerospace Industries Association (AIA). One topic for the meeting is the Agency's pending reconsideration of the recently completed rule on aircraft CO2 emissions which was announced on January 20. In addition, we would also like to discuss the status of the Agency's pending rule to address nvPM for aircraft which would implement ICAO's recent standard. As you know, certification to the nvPM standard must be completed in advance of the January 1, 2023 effective date in order for U.S. manufactured equipment to be sold and operate internationally. Attached for your information is a recent letter from AIA to a number of Administration officials (including a cc: to Mr. Regan) that will provide additional background on aviation carbon related issues and a second one on the importance of U.S. nvPM regulations. Please let me know what additional information you may need to support this request. Thank you in advance for your consideration and we look forward to speaking with you soon.
All the best,
Peter A. Pagano
Director, Environment
The Boeing Company
703-414-6486 (O)
703-362-8813 (M)
Email: peter.a.pagano@boeing.com

<ATPFile_CE6EEE48-3663-4393-AEBB-9A55F7C1723F.token>

AIA AEROSPACE INDUSTRIES ASSOCIATION

February 11, 2021

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

The Honorable Steve Dickson
Administrator
Federal Aviation Administration
800 Independence SW
Washington, DC 20591

The Honorable John Kerry
United States Special Presidential Envoy for Climate
Executive Office of the President
1650 Pennsylvania Avenue NW
Washington, DC 20502

The Honorable Gina McCarthy
National Climate Advisor
Executive Office of the President
1650 Pennsylvania Avenue NW
Washington, DC 20502

Dear Secretary Buttigieg, Administrator Dickson, Special Envoy Kerry, and National Climate Advisor McCarthy:

The Aerospace Industries Association (AIA) represents over 300 aerospace and defense companies, from America's leading manufacturers of commercial aircraft and aircraft engines to family-owned businesses that make up our supply chain. Our industry is a major economic driver, employing over two million Americans and contributing $396 billion (nearly 2 percent of the total) to U.S. GDP in 2019 alone. This success is driven by our ability to innovate to solve problems, and that includes the threat climate change poses to our country and planet's future.

While aircraft contribute only about 2 percent of global CO_2 emissions, all sectors need to play their part in rising to this challenge, which is why **our industry is ready to work with the Biden Administration to improve the sustainability of air travel**. Working together, we can establish a holistic approach based on international partnerships and domestic policies that increase the production and use of sustainable fuel, accelerate the development of next-generation aviation technology, and modernize our nation's airspace.

Principles to Build on Aviation Manufacturers' Climate Commitments

As aviation manufacturers work to address the climate impacts of aviation, it is important that the U.S. government identifies a clear strategy to support these efforts based on the following principles:

- Coordinated international solutions should be prioritized in recognition of the cross-border nature of the aviation industry and aircraft emissions;
- Successfully decarbonizing the industry will rely on using the array of tools at our disposal to reduce aviation's climate impacts. Focusing just on individual measures in isolation, such as more efficient aircraft, will not be enough; and,
- Domestic policies must provide the industry with the capability to transition to a green future without jeopardizing the essential role aviation plays in our economy and society.

A strategy based on these principles will build on the work our industry is already doing to address climate change and achieve the goals AIA and the wider global aviation community committed to in 2008:

1) Improving the fuel efficiency of the global feet by 1.5 percent per year from 2010 to 2020;
2) Stabilizing CO_2 emissions from 2020 with carbon-neutral growth; and
3) Reducing net CO_2 emissions from 50 percent by 2050 compared to 2005 levels.

With the first two of these goals now accomplished, the focus for aviation manufacturers is on enabling future efficiency improvements in support of the industry's long-term carbon reduction target. While meeting this goal will be challenging, aviation manufacturing has a strong track record of improving the environmental performance of our products. In fact, the latest commercial aircraft are 80 percent more fuel efficient than the first generation of jet aircraft and as fuel efficient, on a per-passenger-mile basis, as a hybrid electric car. We are confident that with the right support from policy makers we can expand on these improvements and help transition aviation to a more sustainable future.

The Importance and Effectiveness of International Climate Action

Much of the progress the aviation industry has made in reducing our environmental impacts has been driven by governments, industry, and NGOs working together through the International Civil Aviation Organization (ICAO), a specialist branch of the United Nations. This international collaboration is essential for an industry such as aviation, which by its very nature requires cross-border solutions.

One significant international milestone achieved this year is the initiation of ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), which will require any growth in international aviation CO_2 emissions above 2019 levels to be offset by participating nation states. There are currently 88 countries participating in CORSIA's pilot phase – representing 77 percent of international aviation activity – and the scheme will eventually be expanded further to cover at least 90 percent of international aviation activity in 2027.

ICAO has also established a landmark CO_2 standard – the first ever for aircraft – which the Environmental Protection Agency (EPA) recently implemented into domestic law. This standard ensures that U.S. manufactured aircraft meet the same fuel efficiency requirements as global competitors, a crucial step to both drive up the environmental performance of aircraft and protect the important economic contribution of aviation manufacturers. This rule is essential to meet our international climate commitments, while also delivering on the bipartisan legislation – signed by President Obama in 2012 – to pursue a worldwide approach through ICAO that addresses aircraft greenhouse gas emissions. Following the finalization of the EPA rule, **we ask that the Federal Aviation Administration (FAA) develop regulations this year that will allow U.S. manufacturers to certify their aircraft to the global CO_2 standard.**

ICAO, with technical input from AIA members, is continuing to assess the feasibility of a new long-term goal for international aviation emissions. To build upon achievements to date, **we urge the Administration to continue to prioritize multilateral solutions and maintain the leadership the U.S. government has demonstrated in these activities.**

A Holistic Approach to Tackling Aircraft CO_2 Emissions

While more efficient aircraft technology is both vital to meeting our climate targets and the most direct way AIA members will contribute to these goals, **we must also use other measures at our disposal if we are serious about reducing our climate impacts**. These tools include:

- **Sustainable Aviation Fuel (SAF)**, which offers lifecycle CO_2 reductions of up to 80 percent currently (and potentially 100 percent in the future) when compared to traditional jet fuel and, crucially, can be used in the existing fleet without modifications to aircraft or infrastructure;
- **Operational Improvements**, such as more accurate navigation technology, which enable aircraft to fly more direct routes and burn less fuel (additional efficiencies can be gained through operational practices by airlines, such as flight planning, flight operations, cabin utilization, and other business practices); and,
- **Market-Based Measures**, such as carbon offsetting schemes like CORSIA, which provide a "gap-filler," so that aviation can reduce its net emissions beyond what can currently be realized through more efficient aircraft, SAF, or operational improvements.

Unlike new aircraft or engine technology, which can have long development times and take several years to filter through the fleet, these additional options can benefit the entire system immediately. Policies that embrace/promote/support SAF, operational improvements, and market-based measures will allow aerospace manufacturers to give greater attention to more radical breakthrough technologies for future aircraft, as well as more incremental benefits using current and near-term technologies.

Enabling Industry Emissions Reductions with Domestic Actions

Sustained government support is needed for the aviation sector to meet our climate goals. As part of the necessary holistic approach highlighted above, **government leaders should take the following actions to lead us to a more sustainable system**.

Measures to Accelerate the Production and Use of Sustainable Aviation Fuel (SAF)

SAF offers by far the most effective way of reducing the environmental impact of flying in the short-term. SAF is already commercially produced and used in limited amounts, but not in quantities for it to be an economically viable option for airlines today. If the Administration wishes to take immediate steps to reduce the environmental impact of flying in the near-term, it should:

- Support incentives for greater production of SAF through a blender's tax credit;
- Provide increased funding for R&D to drive down the cost of development and production, including through the use of new feedstocks and production processes;
- Adopt policies to encourage sustainable fuel production specifically for aviation, recognizing the much wider range of current and in-development options for decarbonization that other modes of transportation have; and
- Demonstrate government commitment to helping grow the market by increasing military procurement and use of SAF.

Enhance Public-Private Partnerships to Accelerate Next-Generation Aircraft and Engine Technology Development

AIA members are exploring a range of technologies for next-generation aircraft in the 2030s, offering improvements in fuel efficiency of 15-25 percent compared to current aircraft. To realize these benefits, U.S. aviation manufacturers will require support to remain competitive, given the impact of COVID-19 and the billions of dollars European governments are providing their industries to support similar efforts. The Administration can assist these efforts by:

- Advancing the National Aeronautics and Space Administration (NASA) Aeronautics Research Mission Directorate's work in enabling technologies for next generation aircraft, such as new airframe and engine architectures, improved aerodynamics, advanced propulsion (including electrification), advanced manufacturing, and lightweight materials;
- Accelerating the timetable of a NASA subsonic demonstrator 'X-plane' incorporating these innovations to ensure U.S. companies can bring these technologies to maturity ahead of European competitors;
- Increasing funding for the Federal Aviation Administration's (FAA) Continuous Lower Energy, Noise and Emissions (CLEEN) Program to accelerate near-term fuel-efficiency improvements in conjunction with reductions in noise and other emissions that manufacturers need to balance; and
- Developing a comprehensive, long-term research agenda to secure U.S. leadership in transformational aviation technologies, leveraging partnerships between industry and government agencies such as NASA, the Department of Transportation, Department of Defense, and Department of Energy.

Deliver Modernization of our Nation's Airspace

The FAA has already made significant progress in terms of delivering enhancements to the National Airspace System (NAS) through its NextGen efforts. The Administration should continue to prioritize realization of these improvements, which are expected to deliver 2.8 billion gallons of fuel savings through 2030, by:

- Implementing performance-based navigation (PBN) routes that enable aircraft to fly shorter, more direct routes – reducing unnecessary fuel wastage; and
- Ensuring PBN implementation is complemented by continued efforts to promote community involvement in changes to airspace structure, which will deliver improvements in terms of both noise and climate impacts.

Conclusion

A strong aviation sector is crucial to the U.S and global recovery from COVID-19. An important part of this recovery should be strengthening the sector to help it realize a green future. But we must do that without jeopardizing the connectivity upon which our economy and society rely. The White House is committed to tackling climate change and leading in green technology development – a commitment our industry shares. Through leadership at ICAO and policies supporting greener aviation practices, the Administration can help usher in a more economically successful and environmentally sustainable future for our industry, country, and world.

Sincerely,

Eric Fanning
President and CEO
Aerospace Industries Association

cc. EPA Administrator-Designate Michael Regan
NASA Acting Administrator Steve Jurczyk

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/4/2021 4:11:58 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: FW: READING: Materials for Thursday, March 4, 2021
Attachments: RFS Annual Rule Waiver Discussion.pptx; Streamlining Tech Amendments One-pager.docx

Fyi.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Kim, Eun <Kim.Eun@epa.gov>
Sent: Thursday, March 4, 2021 11:05 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: READING: Materials for Thursday, March 4, 2021

Sorry Joe! I noticed that the Fuels Bi-weekly call was not on your calendar, so that's why I didn't attach to the Reading package last night.

Eunjung Kim
Special Assistant
Office of Air and Radiation
(202) 815-7252

From: Kim, Eun
Sent: Wednesday, March 3, 2021 5:46 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: READING: Materials for Thursday, March 4, 2021

Key Flag: there is an attached email that contains an email chain and documents associated with the Interagency meeting on the Kigali Amendment that is this Friday. The State Department has requested any comments ahead of the meeting, so probably ***by Thursday***.

Check-In, Air Issues, Management Roundtable, and Comms Weekly meetings starting at 8:30am

Also included the Comms Materials for CSAPR update.

Goffman, Joseph Calendar
Goffman.Joseph@epa.gov
On Thursday, March 4, 2021
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

March 2021

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Busy
Out of Office
Tentative
Working Elsewhere
Free
Outside of Working Hours

March 2021

Thu, Mar 4

	Before 8:00 AM	**Free**
	8:00 AM – 12:00 PM	**Free**
	12:00 PM – 12:30 PM	Lunch/Management time
	12:30 PM – 1:00 PM	One-on-One with Ann Ferrio
	1:00 PM – 1:45 PM	Primary Copper Smelting RTR Proposal Rule - Informational Briefing (materials attached, 1 doc)
	1:45 PM – 2:00 PM	**Free**
	2:00 PM – 3:00 PM	Meet with Sierra Club
	3:00 PM – 3:45 PM	Pre-Brief on Early Guidance Meeting with Administrator (Near-Term Light-Duty Vehicle GHG NPRM) (materials attached, 1 ppt)
	3:45 PM – 4:00 PM	**Free**
	4:00 PM – 4:45 PM	E15 1-psi Waiver Litigation Next Steps (materials attached, 1 doc)
	4:45 PM – 5:00 PM	**Free**
	After 5:00 PM	**Free**

Eunjung Kim
Special Assistant
Office of Air and Radiation
(202) 815-7252

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/9/2021 12:20:30 AM
To: Garbow, Avi [Garbow.Avi@epa.gov]
CC: Utech, Dan [Utech.Dan@epa.gov]; Adhar, Radha [Adhar.Radha@epa.gov]; Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Subject: FW: URGENT: ACE Briefing Materials
Attachments: ACE letter - 2_8_21 - FINAL.docx; ACE CPP Repeal issues - 2_8_21 - Administrator Briefing.docx

This is the read-ahead material referenced in my earlier email. Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/3/2021 2:53:12 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Vehicles ART.docx
Attachments: Vehicles ART.docx

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/11/2021 7:47:01 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: FW: Meeting request: Refinery, Chemical, Petrochemical Air Standards
Attachments: Refinery Chem Petro Letter to EPA CEQ 02-11-2021.pdf

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Emma Cheuse <echeuse@earthjustice.org>
Sent: Thursday, February 11, 2021 2:08 PM
To: cecilia_r_martinez@ceq.eop.gov; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; lucey.john@epa.gov; Lassiter, Penny <Lassiter.Penny@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Whitehurst, Shanika <whitehurst.shanika@epa.gov>
Cc: jpew@earthjustice.org; kriley@earthjustice.org; tsagar@earthjustice.org
Subject: Meeting request: Refinery, Chemical, Petrochemical Air Standards

Good afternoon,

The groups listed on the attached letter respectfully request a meeting to discuss the need to review and strengthen the refinery, chemical and petrochemical sector air toxics standards.

As we understand the new Administration is still settling in, these groups would like to offer this request for a meeting at a helpful time before this Administration makes decisions on these important rules, with the communities who are seeking strong health protection. As noted in the attached letter, these rules fall at the heart of this Administration's commitments on environmental justice, clean air, and climate.

We are extremely grateful for your time and consideration of this letter, and ask that you kindly pass this letter along to others within the Administration who should receive this meeting request, with apologies for any omissions or errors in addressees.

Very best regards,
Emma Cheuse

Emma Cheuse
Staff Attorney
Earthjustice
1001 G Street, N.W. Suite 1000
Washington, DC 20001
T: 202.745.5220 (direct) or 202.667.4500 Ext. 5220
F: 202.667.2356
echeuse@earthjustice.org
https://www.earthjustice.org
(she/her/hers)

EARTHJUSTICE

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February 11, 2021

John Lucey
Special Assistant to the Administrator
U.S. Environmental Protection Agency

Dr. Cecilia Martinez
Senior Director for Environmental Justice
White House Council on Environmental Quality

Mr. Joseph Goffman
Acting Assistant Administrator and Principal
Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Tomás Elias Carbonell,
Deputy Assistant Administrator for
Stationary Sources
Office of Air and Radiation
U.S. Environmental Protection Agency

Re: Meeting Request on Regulatory Action Needed to Advance Environmental Justice and Protect Fenceline Communities' Health from Toxic Air Emissions of Chemical, Petrochemical Manufacturers and Petroleum Refineries

Dear EPA and CEQ Leadership:

Best wishes and thank you for your vital public service in the Biden-Harris Administration. The undersigned include fenceline community, and national environmental, scientist, and health groups whose members and constituents face regular exposure and health concerns due to hazardous air pollution and who have worked for years to address this problem. We request a virtual meeting with EPA to discuss time-sensitive opportunities for action that communities urgently need on air toxics, including a review of the emissions standards for the petroleum, chemical and petrochemical sectors:

- Petroleum Refineries (Feb. and Oct. 2020 regulatory actions, and existing rules);
- Miscellaneous Organic Chemical Manufacturing (2020 rule, reconsideration pending);
- Ethylene Production (2020 rule, reconsideration pending);
- Synthetic Organic Chemical Manufacturing (existing rules, no action taken);
- Polyether Polyols Production (reconsideration pending);
- Organic Liquids Distribution (reconsideration pending).

EPA has significant information showing these rules must be strengthened to protect public health. These rules regulate major sources of hazardous air pollutants including carcinogens (e.g., benzene and ethylene oxide), toxic metals, and volatile organic compounds that contribute to ozone formation. Reductions in these pollutants would strengthen local health protection and likely also achieve co-benefits, including to advance the Administration's climate goals. Some sources from these categories are co-located with other sources in these categories. There is a strong need for EPA to strengthen all of these rules to address the cumulative impacts of the pollution that is disproportionately harming Black, Latino, and low-income communities around the country, in Texas, Louisiana, Delaware, West Virginia, and beyond.

For example, in 2019, the National Environmental Justice Advisory Council highlighted the need for action.[i] In 2018, EPA committed to review the rules for ethylene oxide emitting sources.[ii] In 2020, EPA's Office of Inspector General issued a management alert and since 2019 it has been

engaged in a regulatory review due to the health impacts of EPA's air toxics rulemakings.[iii] In 2020, the Environmental Integrity Project also released a new report analyzing refineries' fenceline monitoring data showing the importance of fenceline monitoring and indicating the need for stronger requirements in this and similar rules.[iv]

We are relieved that this Administration, under the January 20 Executive Order, has committed to review the prior Administration's rules and actions that carry substantial importance for public health and climate change.[v] It is also vital that this Administration has committed to advance environmental justice. Going forward in the air toxics program, this Administration must prioritize public health, including the health of communities and children who face increased early-life and socioeconomic vulnerability from toxic exposure. It is critical that EPA secure the greatest achievable protection from toxic air sources, follow the best available science on cumulative health threats, and assure strong standards that contain no loopholes and include the most effective forms of fenceline monitoring. This action should start with these rules.

For the source categories listed above, the prior Administration's rules and actions were unlawfully weak or nonexistent—by failing to require fenceline monitoring or apply the best available science on health, and giving sources free passes to pollute through malfunction exemptions and loopholes. Strong action on the above rules will be essential to fulfill the new Administration's commitments and follow current science. For communities who have long suffered from the cumulative impacts of toxic air, EPA should show that it is finally here both to listen and to take the necessary action to end the unjust toxic exposure and disproportionate health impacts.

We ask that EPA meet with us before you make any decisions regarding the air toxics standards for refineries, chemical, and petrochemical manufacturing sector sources listed above. And, we ask that you open a dialogue on the need to reform EPA's air toxics program to prioritize public health and environmental justice, as you work toward this Administration's commitments to meaningful progress. Open and early communication with the communities whom EPA has a responsibility to protect and whom President Biden has recognized deserve particular attention and action from this Administration is needed on these and other similar rules.

We would be grateful to meet virtually at your earliest convenience to discuss the time-sensitive need for action on these particular rules and to open a dialogue on the agency's plans and responsibilities for public health and environmental justice in the area of toxic air pollution. Please contact Emma Cheuse at Earthjustice (echeuse@earthjustice.org or (202) 745-5220) to discuss scheduling a meeting.

Thank you for your time and attention to this important matter.

Sincerely,

Michele Roberts
National Co-Director
Environmental Justice Health Alliance for Chemical Policy Reform
Washington, DC
mroberts@comingcleaninc.org

Sharon Lavigne, Executive Director
Milton Cayette, Treasurer
RISE St. James
St. James, LA
sharonclavigne@gmail.com

Hilton Kelley
Founder and Executive Director
Community In-Power & Development Association
Port Arthur, TX
Hilton.kelley@cidainc.org

Dr. Bakeyah Nelson
Executive Director
Air Alliance Houston
Houston, TX
bnelson@airalliancehouston.org

Jonny Vasic
Executive Director
Utah Physicians for a Healthy Environment
Salt Lake City, UT
jvasic@uphe.org

Joseph O. Minott
Executive Director and Chief Counsel
Clean Air Council
Philadelphia, PA
joe_minott@cleanair.org

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Coalition For A Safe Environment
Wilmington, CA
jnm4ej@yahoo.com

Jane Williams
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California Communities Against Toxics
dcapjane@aol.com

Juan Parras
Executive Director
Texas Environmental Justice Advocacy Services (t.e.j.a.s.)
Houston, TX
parras.juan@gmail.com

Leslie G. Fields
National Director, Policy Advocacy and Legal
Sierra Club
Washington, DC

Neil Carman
Clean Air Director
Lone Star Chapter
Sierra Club
Austin, TX
Neil.carman@sierraclub.org

Genna Reed
Senior Analyst
Union of Concerned Scientists,
Center for Science and Democracy
Washington, DC
GReed@ucsusa.org

Vivian Stockman
Executive Director
OVEC-Ohio Valley Environmental Coalition
Huntington, WV
vivian@ohvec.org

Cynthia Babich
Director
Del Amo Action Committee
Rosamond, CA

Eric Schaeffer, Executive Director
Adam Kron, Senior Attorney
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akron@environmentalintegrity.org
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Emma Cheuse, Staff Attorney
Kathleen Riley, Associate Attorney
James Pew, Staff Attorney
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Anne Rolfes
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Wilma Subra
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Baton Rouge, LA
subracom@aol.com

Miyo Sakashita, Oceans Director, Senior Counsel
Victoria Bogdan Tejeda, Staff Attorney, Climate Law Institute
The Center for Biological Diversity
Oakland, CA
miyoko@biologicaldiversity.org

Cc: EPA Office of Environmental Justice
EPA Office of Air Quality Planning and Standards

---

[i] May 3, 2019 NEJAC Letter to the Administrator, https://www.epa.gov/sites/production/files/2019-08/documents/nejac-letter-ethylene_oxide-may-3-2019-final.pdf.
[ii] https://www.epa.gov/hazardous-air-pollutants-ethylene-oxide/agency-actions-ethylene-oxide#regulations.
[iii] EPA Office of Inspector General, Management Alert (Mar. 31, 2020), and Follow-up Communication between EPA and the OIG in 2020, https://www.epa.gov/office-inspector-general/report-management-alert-prompt-action-needed-inform-residents-living-near; Project Notification #OA&E-FY-19-0091 (Dec. 17, 2018), https://www.epa.gov/office-inspector-general/notification-epa-actions-address-air-toxics-emissions-through-its-residual.
[iv] EIP, Monitoring for Benzene at Refinery Fencelines (Feb. 6, 2020), https://environmentalintegrity.org/reports/monitoring-for-benzene-at-refinery-fencelines/.
[v] Pres. Biden, Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis (Jan. 20, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/5/2021 3:04:07 AM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: SO2 Designations Final Round 4 030421 action memo.doc
Attachments: SO2 Designations Final Round 4 030421 action memo.doc

Ann – I agree with your recommendation that we should offer to brief the Acting Administrator on these designations. What is the most efficient way to do that? Should we add it to the post-it note or just do it via email? Thanks.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/4/2021 4:10:41 PM
To: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]
Subject: FW: Materials for 3/4 Fuels Bi-Weekly
Attachments: Streamlining Tech Amendments One-pager.docx; RFS Annual Rule Waiver Discussion.pptx

Ex. 5 Deliberative Process (DP)

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Burkholder, Dallas <burkholder.dallas@epa.gov>
Sent: Thursday, March 4, 2021 11:04 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FW: Materials for 3/4 Fuels Bi-Weekly

Here are the materials for today's discussion.

From: Burkholder, Dallas
Sent: Wednesday, March 03, 2021 3:09 PM
To: OAR Briefings <OAR_Briefings@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Charmley, William <charmley.william@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>; Manners, Mary <manners.mary@epa.gov>; Nelson, Karen <nelson.karen@epa.gov>; Parsons, Nick <Parsons.Nick@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Michaels, Lauren <Michaels.Lauren@epa.gov>; Korotney, David <korotney.david@epa.gov>; Gustafson, Kurt <Gustafson.Kurt@epa.gov>; Weihrauch, John <Weihrauch.John@epa.gov>; 'Sharyn Lie' <Lie.Sharyn@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Miller, Jesse N. <Miller.Jesse.N@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Greenglass, Nora <Greenglass.Nora@epa.gov>; Hambright, Rosemary <Hambright.Rosemary.E@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; 'Jessica Mroz (mroz.jessica@epa.gov)' <mroz.jessica@epa.gov>; Herbolsheimer, Courtney <herbolsheimer.courtney@epa.gov>; Garfinkle, Stacey <Garfinkle.stacey@epa.gov>
Subject: Materials for 3/4 Fuels Bi-Weekly

Materials for the Fuels bi-weekly on March 4th are attached. Our intention is to briefly walk through the one-pager on the streamlining technical amendment rule and then spend the remainder of the time on the RFS annual rule waiver discussion.

Dallas Burkholder
Office of Transportation & Air Quality
US Environmental Protection Agency
(734)214-4766
Burkholder.Dallas@epa.gov

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/8/2021 1:34:29 PM
To: Millett, John [Millett.John@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]
CC: Ann Campbell (Campbell.Ann@epa.gov) [Campbell.Ann@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Alejandra Nunez (Nunez.Alejandra@epa.gov) [Nunez.Alejandra@epa.gov]
Subject: RCU/CSAPR comms materials -- a few edits. Thanks.
Attachments: OAR Communications Plan_Final Revised CSAPR Update DRAFT.docx jg.docx; Press Release for Final RCU_DRAFT_ks2.docx jg.docx

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/18/2021 8:07:40 PM
To: Orme-Zavaleta, Jennifer [Orme-Zavaleta.Jennifer@epa.gov]

Subject: Accepted: NAAQS Briefing from OAR
Location: Microsoft Teams Meeting

Start: 4/8/2021 3:00:00 PM
End: 4/8/2021 4:00:00 PM

Recurrence: (none)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/1/2021 4:55:35 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]

Subject: Accepted: 2015 Ozone Transport: Implementation Options
Location: Microsoft Teams Meeting

Start: 3/25/2021 3:00:00 PM
End: 3/25/2021 4:00:00 PM

Recurrence: (none)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/18/2021 8:07:18 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]

Subject: Accepted: 2015 Ozone Transport: Step 4 Topics
Location: Microsoft Teams Meeting

Start: 4/12/2021 5:00:00 PM
End: 4/12/2021 6:00:00 PM

Recurrence: (none)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/25/2021 3:22:58 AM
To: Grundler, Christopher [grundler.christopher@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: RE: Heads Up: FW: Kerry meeting with Canada at 1pm - US / Canada Analytics Bi-Lat on Friday

Not too weedy for my taste. Thanks for looping me in.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Wednesday, February 24, 2021 12:13 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Subject: Heads Up: FW: Kerry meeting with Canada at 1pm - US / Canada Analytics Bi-Lat on Friday

Joe—see below (and forgive me if this is too weedy for you to know about)

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

From: Gunning, Paul <Gunning.Paul@epa.gov>
Sent: Wednesday, February 24, 2021 11:03 AM
To: Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Kocchi, Suzanne <Kocchi.Suzanne@epa.gov>
Subject: Fw: Kerry meeting with Canada at 1pm - US / Canada Analytics Bi-Lat on Friday

Just flagging this for you. Maybe too much in the weeds for Joe.

From: Fawcett, Allen <Fawcett.Allen@epa.gov>
Sent: Wednesday, February 24, 2021 10:54 AM
To: Gunning, Paul <Gunning.Paul@epa.gov>; Schmeltz, Rachel <Schmeltz.Rachel@epa.gov>
Subject: Kerry meeting with Canada at 1pm - US / Canada Analytics Bi-Lat on Friday

Hey Paul,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,
Allen

Allen A. Fawcett, Ph.D.
Chief, Climate Economics Branch
U.S. Environmental Protection Agency
(202) 343-9436

From: POLITICO Pro
Sent: Tuesday, February 23, 2021 8:33:18 PM (UTC-05:00) Eastern Time (US & Canada)
To: Clayton, Margie
Subject: U.S. to issue new Paris climate pact pledge ahead of April meeting

U.S. to issue new Paris climate pact pledge ahead of April meeting

By Zack Colman

02/23/2021 08:32 PM EST

The United States will issue its new climate emissions target before President Joe Biden convenes a planned global summit with world leaders on April 22, Canadian Prime Minister Justin Trudeau's office said on Tuesday.

Canada also pledged to join the U.S. in submitting its new target under the Paris Climate Agreement, which calls for each member nation to set its own goals toward reducing their emissions of greenhouse gases that contribute to climate change. The U.S. must submit a new plan, called a nationally determined contribution, under the terms of its reentry into the pact.

The U.S. officially rejoined the pact last week after President Donald Trump denounced it and pulled the U.S. out, making it the only country in the world outside of it.

And citing the Paris agreement's goal of limiting warming to 1.5 degrees Celsius above pre-industrial temperatures, the two countries said they would seek to work toward reaching net-zero emissions by 2050.

The news of the pledges came as President Joe Biden and Canadian Prime Minister Justin Trudeau held a virtual meeting on Tuesday to discuss several issues, which Biden said included a plan to "double down" on their climate change efforts.

"Now that the United States is back in the Paris Agreement, we intend to demonstrate our leadership in order to spur other countries to raise their own ambitions," Biden said. "Canada and the United States are going to work in lockstep to display the seriousness of our commitment both at home and abroad.

The two countries would hold a high-level climate ambition ministerial to "align our policies and our goals and to achieve net zero emissions by 2050," he added.

Trudeau told Biden during the virtual meeting that Canada was "really excited" to be working with the U.S. again on climate change.

"U.S. leadership has been sorely missed over the past years," Trudeau said.

The move to update the emissions targets comes as nations prepare to convene in November in Glasgow, Scotland for the annual Conference of Parties summit, where they are expected to announce new goals toward combating climate change and helping poor countries prepare for the effects of a warming world.

Biden announced the April 22 summit in the early days of his presidency, and he hopes to fulfill a campaign promise to bring heads of state of the major economies together to advance progress on the issue and reassert U.S. leadership. The administration has not announced any attendees for that summit yet.

Maura Forrest contributed to this report

To view online:
https://subscriber.politicopro.com/sustainability/whiteboard/2021/02/us-to-issue-new-paris-climate-pact-pledge-ahead-of-april-meeting-3987192

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USA

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/1/2021 11:18:53 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: FW: FR Notice for Final CAA section 609 Regulation
Attachments: MVAC Servicing IBR FRM_Background for Resubmittal_draft 1-28-21.docx

Please remind me how to proceed. If I recall correctly a point you made this AM, I should be sending this to someone other than Vicki in OP? Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Grundler, Christopher <grundler.christopher@epa.gov>
Sent: Monday, February 1, 2021 4:11 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FR Notice for Final CAA section 609 Regulation

Joe -
We are asking you to forward the attached summary of a final rule to OP, and let them know you are ok for the FRM to proceed to the FR Office. This final rule is under CAA section 609, and incorporates by reference the latest SAE standards for equipment that recovers, recycles, and/or recharges the refrigerant hydrofluoroolefin (HFO)-1234yf or R-1234yf. This rule will point to appropriate industry standards for designing R-1234yf recovery, recycling, and/or recharge equipment.

This is a non-significant regulatory action that enjoys the support of the auto industry. (Notably, the National Automobile Dealers Association (NADA) also commented that since R-1234yf is not an ODS, CAA section 609 did not give EPA authority to mandate equipment purchase and use).

We anticipate little to no reaction from the public and environmental stakeholders.

For your convenience, below is a draft note you could use to send to Vicki. Please let me know if you have any questions.

Chris

****

Vicki:

The attached action, SAN 5206 – Final Rule - Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing, is approved for FR publication. It incorporates by reference the latest industry standards for equipment that recovers, recycles, and/or recharges the refrigerant hydrofluoroolefin (HFO)-1234yf or R-1234yf.

Thanks,

Chris

Christopher Grundler, Director
Office of Atmospheric Programs
U.S. Environmental Protection Agency
202.343.9140 (o)
734.645.5221 (m)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/16/2021 2:39:22 AM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
CC: Shoaff, John [Shoaff.John@epa.gov]
Subject: RE: Canada-U.S. Climate Dialogue Transportation

Ex. 5 Deliberative Process (DP) Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Monday, March 15, 2021 12:14 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Cc: Shoaff, John <Shoaff.John@epa.gov>
Subject: Fwd: Canada-U.S. Climate Dialogue Transportation

Ex. 5 Deliberative Process (DP)

Please let me know if I should hold off replying or if you suggest a different approach.

Thanks.

Begin forwarded message:

> **From:** "Ryan, Helen (EC)" <helen.ryan@canada.ca>
> **Date:** March 15, 2021 at 10:43:46 AM EDT
> **To:** "Dunham, Sarah" <Dunham.Sarah@epa.gov>
> **Cc:** "Stewart, Gwen" <Stewart.Gwen@epa.gov>, "Cauchi, Mark (EC)" <mark.cauchi@canada.ca>, "Fawcett, Allen" <Fawcett.Allen@epa.gov>, "Morin4, Nathalie (EC)" <nathalie.morin4@canada.ca>, "Laurin, Isabelle (EC)" <isabelle.laurin@canada.ca>, "Janeczek, Krista (EC)" <krista.janeczek@canada.ca>
> **Subject: Canada-U.S. Climate Dialogue Transportation**
>
> Hi Sarah,
> I hope you are doing well and that you had a nice weekend. I am following up with you in order to reschedule our fist Canada-U.S. Climate Dialogue meeting for Transportation. I understand that you will be my counterpart. I'm very much looking forward to working collaboratively with you and to strengthening our relationship.
>
> Isabelle from my office would be pleased to work with someone from your office to find a time for us to meet. It would be great if we could connect this week or early next week.

Helen Ryan
(elle, she, her)
Sous ministre adjointe déléguée, Direction générale de la protection de l'environnement
Environnement et changement climatique Canada / Gouvernement du Canada
Helen.ryan@canada.ca / Tél : 819-420-8055 / Tél. cell : 613-513-4573
Associate Assistant Deputy Minister, Environmental Protection Branch
Environment and Climate Change Canada / Government of Canada

50e anniversaire d'Environnement et Changement climatique Canada
Environment and Climate Change Canada's 50th anniversary

150e anniversaire du Service météorologique du Canada
Meteorological Service of Canada's 150th anniversary

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Senate Environment and Public Works Committee Holds Hearing on the Nomination of Michael Regan to be Administrator of the Environmental Protection Agency

CAPITO:

I would like to call the committee to order. I think we have an exciting day today. Anytime that we are considering one of the president's nominees to an extremely important cabinet position, it bears our not just great attention but also our gratitude to folks who put their names in for public service so we will get a lot into that today.

In finality, this is our chairman, Chairman Barrasso's final meeting, final showing in EPW. He will be moving over to Energy in a leadership position over there, and he has also will be leaving this committee. So it is with great sadness and regret that we know that you are leaving Chairman Barrasso. We thank you so much for your years of service here and certainly your leadership as the chairman of this extremely important committee particularly with that transportation bill last year so I'm going to turn it over to you for some statements and then we will proceed with the rest of the meeting. Thank you.

BARRASSO:

Well, thank you so very much, Senator Capito. We are here today to consider the nomination of Michael S. Regan to be administrator of the Environmental Protection Agency but before we begin with the formal proceedings, I see the two senators from North Carolina are here to do introductions, I just wanted to start by saying a few words about our incoming Chairman Tom Carper and our incoming Ranking Member Shelley Moore Capito because for the past four years it's been a pleasure to work so closely with both Senators Carper and Capito here on the committee.

Our partnership, the three of us, as well as other members of the committee, resulted in two separate bipartisan water infrastructure laws that are going to create jobs and provide

clean drinking water to communities, increase water storage in the west, prevent floods, replenish beaches on the coast and help keep our economy moving. We wrote comprehensive historic highway infrastructure legislation that included hundreds of billions of dollars for America's roads and bridges. Our highway legislation cut red tape for important construction projects while also including the first-ever, first-ever climate title to prevent--to protect our environment coming out of this committee as part of the transportation bill.

Senator Carper was my bipartisan partner on these efforts; Senator Capito played a central and clinical critical role in writing these bills as she served as the chair of the Infrastructure Subcommittee. Our highway legislation passed the EPW committee unanimously 21-0. Senator Carper and I also worked together to pass multiple laws to protect wildlife. The WILD Act is going to help spark groundbreaking conservation, innovation and protect iconic species.

We also passed the Americas Conservation Enhancement Act also known as the ACE Act. The purpose of course was to combat invasive species, to address emerging wildlife diseases like chronic wasting disease, all while protecting livestock from predators. Now these bills were praised by farmers, hunters, anglers, conservation groups, environmentalists, and our home states.

Finally, we partnered to pass a historic environmental innovation law that will boost carbon capture technologies while also reducing greenhouse gases from our homes, our air-conditioners, and our school buses. This committee has served as a shining example of what can be accomplished when Democrats and Republicans work together. We agreed to follow Senator Enzi's 80-20 rule and we worked where we could and we found common ground repeatedly so bipartisan change is lasting change. It will make a big difference for a long time to come.

We were able to work together to get things done for the American people. Senator Carper, I sincerely want to thank you, thank your staff for working with me over these past four years and for your dedication to getting so very much done in a bipartisan and productive way, and I am very confident that that productive partnership is going to continue with Senator Capito as the top Republican on the committee.

So I have already said she has played such a critical and crucial role in getting our infrastructure legislation across the finish line; she also is a leader when our committee worked across party lines to address pollution from PFAS chemicals, a leader in that area, a priority for her and her home state. So I know she will lead the Republicans on the EPW very well. This committee is in very capable hands, and with that, I will turn the gavel over to Senator Capito to preside over the hearing. Thank you to both of you.

CAPITO:

Thank you, Mr. Chairman. I appreciate you being here, and we have another former chairman here as well, and then in probably five minutes the soon-to-be chairman so I get to be the chairman too so this is probably some historic--historic--historic number of--of chairmen here but thank you again for your service to this committee, and I know you will do great work over on Energy as you do everywhere so thanks a lot. Thanks for enumerating some of the successes from last year.

I would like to give an opening statement, and then I will turn to my ranking member who is my ranking member for 10 minutes, and then in another event some of the successes I would like to talk about that we were able to achieve in this committee over the last several years was when President Trump signed the USE IT Act which supports carbon capture and utilization and sequestration. It was a great bipartisan bill that Senator Whitehouse and Senator Barrasso, and several of us on the committee work on together.

The Diesel Emissions Reduction Act, which is something we have been working on for years, was passed. Another WRDA bill went through at the end of the year, which is always a good every two-year exercise for all of us, and the American Innovation and Manufacturing or the AIM Act which will reduce emissions of HFCs used in air-conditioning and refrigeration. So that spirit of bipartisanship that we had last year I hope this one that we can--I intend to certainly to maintain and foster and from our conversations numerous conversations I know--I feel as though Senator Carper feels the same way.

Our most pressing focus this Congress will be passing the 5-Year Highway Bill. This is a tough order but one where this committee has already had a record of success. Senator Barrasso talked about it. We reported out the bill 21-0 last year, and I look forward to, and I think we are going to have quick work taking up the highway bill in this committee because the importance not just to our nation's infrastructure but also to our employment structure here and it's a jobs bill, it always has been and it will remain that way and at a time--no more timely than at the present.

So I look forward to working with everybody but we because we must give our states the certainty and with that optimistic introduction, I want to welcome our secretary, our nominee for Secretary Michael Regan and his family here, the nominee for EPA administrator to our committee today, got to meet his wife and his very fun and smart young son Matthew. So congratulations on your nomination. I look forward to the opportunity to get to know you better and discuss and work together into the future.

While I am encouraged by the continuing bipartisanship among members of our committee, I am concerned by the direction that the administration has taken in the first few weeks of office, and I want to understand your position on these policies, and we talked on the phone about this. President Biden did campaign on issues of unity, and there's no committee where we praise unity

more, and sometimes we have more disunity sometimes than this committee that we are sitting on.

The barrage of executive orders has particular concern for me; his decision on the Keystone XL pipeline has, I think, great impacts in the job markets. He has put us back in the Paris agreement which also has great impacts both economically in this country and as the administration has doubled down on the desire to financially support other countries' climate goals while our own country, as we know, is facing economic challenges.

He has ordered agencies across the federal government to examine and uproot critical regulatory reforms including several within the jurisdiction of the EPA even without an administrator in place.

Executive Order 13990 directs the EPA to consider suspending, revising, or rescinding major rules that were put into place by the Trump administration. Those rules include regulations on methane emissions, the Safer Affordable Fuel-Efficient Vehicles rule called the SAFE rule, and the cost benefit and size transparency policies.

CAPITO:

In my view, I think that I see this as a foreboding of--of what happened in past administrations. And coming from a state like West Virginia, it's a cautionary tale.

The fate of other rules, like the Affordable Clean Energy Rule and the Navigable Water Protection Rule, which are important in other states is something that I'm sure we will be digging down on in this hearing. So I would like to say that it is hard to build back better, as the president has said, if we can't build anything, and that's why I think the executive order 1390--990, which directs us to revisit the NIPA regulations, which we were encouraging to expedite infrastructure delivery, I think is--is also--can--could be problematic.

So I--I think that the president has taken--he has talked--I mean, I was in the Oval Office with him on Monday as we talked a lot about bipartisanship and the need to work together. So I think that I am concerned about some of the appointments that the president has made where they are not in the purview of this committee or any, really, congressional committee or congressional oversight.

That, of course, it would be Gina McCarthy and John Kerry. They've already established themselves as the unconfirmed and unaccountable czars on climate as they made that very clear on Wednesday's White House press conference. I am concerned that this is shaping up to be a

third Obama administration. And as I enumerated, and I know I've talked with my friend Senator Carper about the impacts that that had on my state of West Virginia.

I am concerned about the--with the leadership in the White House with the czars what kind of impact will that have on you should you be successful as a--to--to become the EPA administrator. What kind of impacts that will have on you as you curve your own course in conjunction with the administration.

I would remind you, and I think I did on the phone call that one of my objections to Ms. McCarthy is the fact that she wouldn't, at our invitation and many invitations, come to our--the home states of those senators where we had the most deep and economic impacts of that clean power plan. It still stings, I will say, and I'm hoping that we could have a different outcome. And you and I talked about this on the phone.

So I think as we look at that, and that is a balance, it's an achievable balance, but it's a balance, I think that, you know, the president and you also talk a lot about environmental and economic justice. But sometimes I question where is the justice when it's not taken into consideration that many people are being plunged into poverty, unemployment, drug addiction, and hopelessness by some of the misguided policies. So with that, I will turn this over to Senator Carper who is, in this particular meeting, the ranking member. But I look forward to discussing this and I look forward to having our two senators after Senator Carper makes his opening statement. So thank you.

CARPER:

Thank you, Madam Chair. How's that?

CAPITO:

That's perfect.

CARPER:

Most people remember January 6th as a day that will live in infamy. And the Capitol was stormed and overwhelmed by thousands of rioters. People died. In fact, we lost another Capitol policemen just--just this week, very sadly. And another--we're remembering another one in--essentially in state today, in the Capitol.

The thing that I remember also about that day, and you may as well, Madam Chair, you may remember when the senators had gathered, it was about noon on the 6th and the idea was for senators to walk through the Capitol down to the House chamber to begin the work of certifying the results from 50 states with respect to the election. And I--I asked--we usually walk two by two, sort of like Noah's Ark, but I asked Senator Capito if we could just walk together and she graciously said yes and we did.

And along the way, we--we talked and I--I hope you remember this. I certainly do, and we talked about it a common agenda that we could work on together. And the idea was that we could have cleaner air, cleaner water, address climate change, and create jobs. A lot of economic opportunity, including in places like West Virginia, my native state. And I--I found it a very encouraging conversation.

I'm also encouraged by the words of Senator Barrasso, a good friend and good partner over the last several years on this this committee. He has a close friend from Wyoming who ended up being an assistant secretary of the interior, Rob Wallace. And Rob Wallace just sat right there in our hearing a couple of years ago when--for his confirmation hearing to go to the Department of the Interior. Some of you may remember Rob Wallace was--was reminded of the bipartisan nature of this committee and the way we work, whether the chair is Jim Inhofe or--or Shelly Capito or Tom Carper or John Barrasso. That's the way we have traditionally worked.

And that's the way I want to see us continue--continue to work. But Rob Wallace said these words. I'll never forget them. I've used them hundreds of times since. He said bipartisan solutions or lasting solutions. That's what he said. Bipartisan solutions or lasting solutions. And that's true in this committee. And God willing, it will always be true.

I just want to say a special thanks two senators from North Carolina. To Richard, welcome. Tom, welcome. We are delighted that you're both able to be here. It's very good of you to come. I also want to--to just say--we're gathered here--first of all, Melvina. Melvina, would you raise your hands? I feel like we're on a football field here. I don't know who the big guy is. Matthew, would you stand up? Would you stand up, Matthew? Go ahead and stand up. Matthew, how are you doing, buddy? Welcome. Thank you so much, both of you, for--for being here to be with your husband and be with your dad.

We're gathered here today to consider the nomination of Michael Regan. Not Reagan. Michael Regan to serve as the administrator of the Environmental Protection Agency. So in my mind, a little bit of what we used to do in the Navy, we have hail and farewell events several times a year for those who were coming and to join us in my squadron or those that were leaving. And so we're welcoming some new--new folks on--on our side.

I thank Senator Stabenow, I thank Senator Kelly (INAUDIBLE) for joining us and we're saying goodbye, though, to Senator Gillibrand, to Senator Booker, and Senator Van Hollen. And I just learned here today we're saying goodbye to our friend John Barrasso, which I did not see coming. I am surprised to hear that and disappointed. Pardon?

UNKNOWN:

(OFF-MIC)

CARPER:

No, no. Barrasso. Barrasso.

(LAUGHTER)

You're stuck with us.

(LAUGHTER)

But I--I just wanted to thank John for his--for his leadership over the past four years. It's been a joy working with him and his staff led by Richard. And I want to thank Emma from Mary Frances (PH) over here. She and Richard made a good team and we've got so much done. So much done. Very, very proud of what we accomplished by working--working together.

And I also want to thank you, Madam--Madam Chair for--and your staff for your assistance in bringing this hearing together today. And I want to congratulate you on your newly new leadership position both of them.

(LAUGHTER)

One more short term then--then the other. But as we discussed the last--last month on January 6th and as recently as last week, there's a lot of important work ahead for our committee and I very much look forward to working together as partners in tackling the challenges facing our nation and our planet. So there.

With that, said, I want to warmly welcome our nominee, Mr.--Mr. Regan and thank him for being with us today and also with his wife Melvina and son Matthew. And we--I want to thank--I want to thank your wife and--and your son not just for your--them being here, I just want to thank you for your willingness to share your husband and your dad with--with our country. This is really important work. This is going to determine what kind of planet that we live on an earth

we have and the quality of our life in the days to come, so thank you for sharing him, as you have already shared him with the people of North Carolina.

But Mr. Regan, as we all know, Mr. Regan and his family hail from the state of North Carolina. Birthplace of my wife, Martha, who Michael may recall is a graduate of Appalachian State University where her dad taught math and physics for 40 years. She sends her very best wishes to you and your family on this special day, Michael.

Martha and I have the privilege of meeting Michael about a year ago. And as I've gotten to know him in the time since then, I've become convinced that he is the right person to lead the Environmental Protection Agency during this critical--critical time in our nation's history. He's a man of deep faith who believes, as I think all of us do, that we have a moral obligation to be good stewards of this planet on which we live.

I believe that the Michael Regan is someone who can help unite us in common purpose as we respond to the climate crisis we face as well. It's to clean our air, or water, and strive to make sure that we don't leave some of our communities and neighbors behind us in the effort to do so.

Currently, Mr. Regan serves as the secretary of North Carolina's Department of Environmental, quality role where he has demonstrated the past four years the power of effective leadership in improving the quality of the air North Carolinians breathe and their neighboring states as well and the water that they drink. For proof of this, we need only look at some of his accomplishments during his tenure there.

CARPER:

They include leading the negotiations that resulted in the cleanup of the Cape Fear River, not far from where my wife Martha lived and--and worked just getting--getting out of college. He also negotiated and oversaw what's considered to be the largest coal ash cleanup settlement in I think the history of the United States. And he created North Carolina's first ever Environmental Justice and Equity Advisory Board.

Mr. Regan has been able to do these things and much more by bringing people together in common cause while never compromising on his principles. And again, the presence of Senators Burr and Tillis here bear testimony to that. And we welcome--again, we welcome each of you to--to this hearing.

In the Tar Heel state, Michael Regan developed a reputation as a work--as a leader who works with Democrats and with Republicans to forge practical solutions, solutions to protect the air we

breathe, the water we drink, while supporting job creation and economic growth. And as we struggled with his current recession behind us, that kind of leadership is what we need now more than ever at EPA.

It's no secret that the next EPA administrator has his work cut out for him. In addition to addressing the serious environmental issues that are affecting Americans, the next EPA administrator will also be tasked, along with the members of this committee, in helping to rebuild an agency badly damaged at times in recent years by flawed leadership and an agency suffering from organizational drift and, for the most part, low morale. And one of the keys to accomplishing this will be restoring scientific integrity in a--as the foundation of policymaking at EPA, and Michael Regan understands that well.

The men and women of EPA need to work with purpose and with dispatch to address the climate crisis facing our nation and our planet. It's real. The threat it poses to our planet is growing worse, not better. The EPA team can do so in part by working with U.S. Department of Transportation, the auto industry, and others to restore vehicular greenhouse gas emission standards. And as we know, we've had some improving--some encouraging developments there, especially with mobile sources, the auto industry, who are sort of reaching out and saying we want to be part of the solution. I'm very much encouraged by that just in the past week.

The EPA team also needs to implement our new HFC phase down law and the Toxic Substance Control Act, both authored by members of this committee, and as well as to reverse and replace the oil and gas methane rules and begin work on the next phase of climate rules for power plants, vehicles, and refineries.

In addition, EPA needs to ensure cleaner air by establishing--reestablishing legal bases for mercury and air toxic standards, and it must better protect human health, as North Carolina has already done, by taking action on certain so-called forever chemicals such as PFOA and PFAS that also foul the groundwater of states like West Virginia, like Delaware, and hundreds of other communities across America. Moreover, in doing this work, EPA must curb the influence of special interests within its scientific advisory bodies.

I know our president is calling on Americans to build back better. And to do that--to do that, we'll need to redouble our efforts to address the climate crisis, safeguard our air and our water as well as other natural resources, and environmental--and ensuring environmental justice in all of our communities.

We must rebuild our infrastructure, roads, highways, bridges, water, wastewater, access to the broad--broadband--access to broadband. Those are just some of the parts of our infrastructure that need to be rebuilt, and they shouldn't be partisan issues. They ought to be bipartisan issues, and I think they will be. Most of those are within the purview of this committee. The--not only--I

don't mean to diminish how hard it's going to be. It's going to be a challenge, and the challenges are daunting. But if we do together, we'll succeed.

I believe that Michael Regan is the partner we needed EPA to do these things, that he has a good heart and a good mind. He knows how to assemble, retain, and inspire a team of talented men and women. He has what it takes to help us make progress on many fronts as we seek to protect our planet and its inhabitants while creating a more nurturing environment for job creation and job profession--preservation same time. That's why President Biden has nominated him for this important spot.

So, Mr. Regan, welcome. Thank you for--again, for preparing--appearing before us this afternoon and for your willingness to serve our nation as we take on some of the most serious challenges in our history. We look forward to hearing from you today and, if confirmed, to working with you and those who you'll lead in the years to come.

And before I turn it over to Senator Capito, let me just say I've been close with these words of Albert Einstein. Albert Einstein used to say in adversity lies opportunity. Think about that. In adversity lies opportunity. There's no doubt that we face plenty of adversity on--in this--in this--in this country and--and on this planet as we gather here today. But along with that adversity comes extraordinary opportunity to do great things for the people whom we are privileged to represent, along with their neighbors, whether those neighbors live on the other side of the street, other side of town, or the other side of the world.

And again, thank you all for giving me a chance to--to serve with you. And again, we will--I'm thrilled that we're here for this day. Thank you all.

CAPITO:

Thank you, Senator Carper. And look--thank you for the kind words, and certainly look forward to our--our serving together at the--at the helm of this committee. Now I would like to--I am very honored to have both the home state senators here from North Carolina. And I would like to recognize Senator Burr for an introduction of our nominee.

BURR:

Madam Chairman, thank you very much. Chairman, soon to be, thank you. I didn't think we would make history today at this hearing, but I think this probably will be the shortest chairmanship in the history of the United States Senate.

(LAUGHTER)

And Senator Tillis and I were talking. Where you've got the witnesses positions in the room, this is sort--sort of like looking at Russia from Alaska. I'm sorry Senator Sullivan left. It's hard to--to--to see all that way.

I appreciate the opportunity to come before the committee today to introduce Secretary Michael Regan as you consider his nomination to be administrator of the Environmental Protection Agency. It's always a pleasure to introduce someone from your own state, especially one with whom I've had the opportunity and the pleasure of working, and who is extremely, extremely qualified for this position.

Secretary Regan is a proud North Carolinian, born and raised in Goldsboro, North Carolina by his parents, Zeb and Mavis, along with his brother and sister. Both of his parents were public servants, with his mother working as a nurse for over 30 years, and his father served in Vietnam and continue to serve in North Carolina in the National Guard until his retirement as a colonel. It's clear that his parents instilled not only the values of public service, but also love affair with the outdoors, including hunting and fishing. And that continues to this day, I could say a passion we both share.

While attending North Carolina A&T, Michael met his beautiful wife--wife Melvina. Melvina is likely the real star of the family, having graduated from North Carolina A&T along with a Masters from Radford University. She currently works in the Research Triangle Park. She's managed all of that while also raising their son, Matthew.

Michael, after graduating from North Carolina A&T, where we share in common a very good friend in the chancellor, Harold Martin, with a degree in environmental science, Michael began an internship with the EPA at the Research Triangle Park campus. This was only a start, as he stayed with the EPA for over nine years, working in various offices and gaining policy experience while also completing a Masters in public administration from George Washington University.

Following his initial tenure with the EPA, he served as associate vice president for clean energy in southeast--and--and southeastern regional director for the Environmental Defense Fund. With his stellar resume, Mr. Regan was tapped by Governor Cooper in 2017 to serve as the secretary of North Carolina Environmental Quality.

As the committee evaluates his nomination, I believe his tenure in North Carolina can tell--tell many of you much about how he will approach our shared desire for clean air and water with the need to ensure we do not unnecessarily limit economic opportunities. North Carolina is blessed by beautiful coastlines and mountains, as well as some of the most fertile agricultural lands in this country.

As secretary of the state's Department of Environmental Quality, Secretary Regan was able to find the right balance by reaching out to stakeholders and ensuring that the department's relationship with the rural communities, whose lifeblood is agriculture, was constructive and not adversarial. To underscore this, Secretary Regan's nomination is supported by over 20 of the largest agricultural organizations in the country. These organizations and their state associations understand that they're not always going to agree with every decision handed down by the EPA, but they know and trust they'll--

BURR:

receive a fair hearing. It is my belief that Secretary Regan will bring the same qualities, experiences, and values of environmental stewardship while balancing the needs of rural communities to this new role as administrator. On top of that, let me say this, Michael is a good man, he is a good husband, he is a great father, and I look forward to supporting his nomination on the floor. I think the chair.

CAPITO:

Thank you, Senator Burr. Senator Tillis, would you like to join in that rousing introduction?

TILLIS:

Well, Madam Chair for the moment and incoming Chair in a matter of moments, thank you for letting me be here with my friend and colleague Senator Burr and introduce Michael Regan. I am not going to cover some of the ground that Senator Burr did so well except to say that Secretary Regan is somebody that I have tracked, I have a history in North Carolina, I was Speaker of the House down there, we took up some of these thorny issues of coal ash and passed legislation back when I was Speaker of the House, so I got to see some of that come to life in a Republican administration and then continue to grow in a Democratic administration under Governor Cooper.

I will tell you that in the time after his nomination was put forth, I have spent a lot of time talking to people in North Carolina, people in the agriculture sector, people in the energy sector, and what they all said to a person is Michael distinguished himself as somebody who listens and somebody that tried to take in the input from both sides and come up with a fair outcome, and that is why I believe that he does have the support of over 23 national leading organizations not only in agriculture but in the business community.

You know we have to understand that the election produced a different leader down in the White House. We can't imagine as Republicans that we are necessarily going to have a president with the same priorities as ours, but what we can hope for are people in the administration who have a track record of listening and trying to come up with a sustainable outcome. As Ranking Member Carper said, you know, trying to produce something that has enduring value and I believe that Michael will go to the EPA, he will be fair, he will listen, he will sometimes take on initiatives that I will disagree with most likely vote against, but I do believe that he will be somebody that we can rely on to be fair with the reality of the change in transition.

So I want to thank him for being here today. I want to thank him for his years of service and thank him in advance for the tough job that he is about to take on. I also want to welcome Melvina and Matthew. Matthew, if this hearing goes long, I'm right across the hallway so you can come visit with me, and I'll bring you a goodie bag over here with some North Carolina treats while you're waiting here. But I really hope that you will listen to him today, ask him the tough questions that we should ask, the things that we as Republican members are concerned with, but at the end of the day, I think we have got a great, well-qualified nominee before us and I encourage your support. Thank you, Madam Chair.

CAPITO:

Thank you. I think both of you and thank you for reminding everybody that this is going to be the shortest chairmanship on record, appreciate that. So I would like to introduce our nominee to the committee. If you guys would like to change places, we will wait here a few minutes. Mr. Regan?

Thank you. I would like to, as I said, bring Michael Regan nominated to be the administrator of the Environmental Protection Agency, which he is ready to testify. Want to remind you that your full written statement will be made a part of the record, and I look forward to hearing your testimony, but before you begin, I am sure you would like to do this, and I look forward to this, would you like to introduce your family or anyone else that is with you today?

REGAN:

Thank you, Madam Chairwoman, and I think they have been introduced adequately, but I would like to say that I do have my beautiful wife Melvina with me today and my son Matthew. Extremely grateful to have both of them.

CAPITO:

And I am sure you have a lot of family and friends who are tuning in right now too, so I am sure they send their best wishes to you. So if you want to go ahead and proceed with your testimony, we are all ears.

REGAN:

Thank you, Madam Chairwoman Capito and Ranking Member Carper, and members of this committee. I'm grateful for your time this afternoon and our shared commitment to protecting our environment, our communities, and our economy. I have dedicated my career to public service, and I appreciate the opportunity to highlight my qualifications and my passion for environmental stewardship, public health, and economic prosperity.

I want to thank Senator Burr and Senator Tillis for their kind words and very strong introduction. I want to thank President Biden for nominating me and trusting me to lead this important agency during a vital time in our nation's history, and again I want to especially thank my wonderful and beautiful wife, Melvina, whom I am blessed to have as a partner in life as we navigate life together; my son Matthew who I am extremely proud of and consider it a privilege to be his dad. Together we prayed as a family before I accepted this nomination, and we are so proud to take on this assignment. I am grateful for their support.

For the last four years, I have proudly served as a Secretary of the North Carolina Department of Environmental Quality, working to provide all North Carolinians with cleaner air and cleaner water while nurturing our state's economy. I fell in love with the outdoors growing up in eastern North Carolina, hunting and fishing with my father and grandfather. Those beautiful waters and those lands are legacies that they were proud to share with me, but they also taught me that protecting them was my responsibility as well.

Like millions of Americans living in rural communities, preserving our natural resources isn't something just to balance with the economy; it is essential for economic growth along with protecting public health and our way of life. Careful stewardship is more--careful stewardship of the environment is more than just passing down traditions to the next generation; it is about learning from the past and being prepared to combat the challenges that our future generations will face.

Both of my parents were dedicated public servants, my mother a nurse for close to 30 years, the best nurse in Wayne County. My father served his country in Vietnam, worked for the North Carolina Agriculture Extension Service for years, and ultimately retired as a Colonel with the North Carolina National Guard. So obviously, after graduating from North Carolina Agricultural and Technical State University with a degree in environmental science, I knew I wanted to find a way to serve, and that led to my first summer internship at EPA.

I spent nearly ten years at EPA under presidents of both parties, and it is an honor of a lifetime to be invited back. Throughout my career, I have learned if you want to address complex challenges, you must be able to see them from all sides, and you must be willing to put yourself in other people's shoes. The best way to do that is by convening stakeholders where they live, where they work, and where they serve, fostering an open dialogue rooted in the respect for science, a clear understanding of the law, and a commitment to building consensus with pragmatic solutions.

I have also learned that we can't simply regulate our way out of every problem we face. This approach has proven to be effective as my tenure of Secretary of DEQ. We have tackled the adverse impacts of hog farms, cleaned up toxic PFAS pollution in our rivers, and reached the largest coal-ash settlement in U.S. history. I will never forget looking into the eyes of Amy Brown, the mother of two boys, as she told me she had not let her sons play in the bathtub or in the pool in the backyard for years because they were required to live on bottled water after the Dan River coal-ash spill. That night as I gave my son Matthew his bath with fresh tap water, I found that this story would have a happier ending for Amy Brown and her two sons, and we did just that by following the science, following the law, bringing industries together with the impacted communities not as adversaries but as stakeholders working together for real solutions.

In North Carolina, we are moving beyond the old argument that we have to pit creating jobs against protecting the environment. We have demonstrated that you can do that from the North Carolina mountains to the Old North State's coast. President Biden has said confronting climate change presents an unprecedented economic and jobs opportunity. In North Carolina, we seized that opportunity, partnered with private sectors to provide opportunities and regulatory certainty and harnessing our strength in manufacturing, innovation, and research, which has resulted in the creation of tens of thousands of new jobs in North Carolina. And if confirmed, I will work with the entire administration to build and strengthen that partnership to power Americans--America's economy with cleaner energy and create millions of good-paying, middle-class jobs.

Our priorities for the environment are clear. We will restore the role of science and transparency at EPA. We will support the dedicated and talented career officials. We will move with a sense of urgency on climate change, and we will stand up for environmental justice and equity. And we will do that in a collaborative manner in partnership with state and local governments who know their own communities better than the federal government ever could.

We'll work transparently and responsibly with industries eager to establish clear, consistent rules of engagement, and we will engage working Americans whose voices have been absent from these conversations about our environment for far too long. And last but not least, we will work to do this in partnership with Congress, leveraging your expertise and concerns for your constituents as we build healthier communities through environmental stewardship and economic growth.

We all have a stake in the health of our environment, the strength of our economy, the well-being of our communities, and the legacy that we will leave the next generation in the form of the nation's natural resources. And while those values may not unite us on every single policy question, I think it's a solid foundation for a successful partnership. I look forward to building on bad foundation with you if confirmed, and I look forward to answering any questions that you might have for me today. Thank you.

CAPITO:

Thank you, Secretary Regan. I appreciate that. And I have some little business items before we get to the questioning. That hearing will include two five-minute rounds of questions. I will start the second round after closing the first.

To be fair to the other members of the committee and the witness, I ask senators to be please limit your questions each round to the five minutes. Throughout this hearing and with the questions for the record, our committee members will have an opportunity to learn more about you, Mr. Regan. I would ask that throughout this hearing, you please respond to the questions today and for those that we will submit for the record.

So these are the questions that I have to ask and we ask of all nominees on behalf of the committee. Do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate committees of the Congress and provide information subject to appropriate and necessary security protection with respect to your responsibilities?

REGAN:

I do.

CAPITO:

Do you agree to ensure that testimony briefings, documents, and electronic and other forms of information are provided to this committee and its staff and other appropriate committees in a timely fashion?

REGAN:

Yes, I do.

CAPITO:

Do you know of any matters which you may or may not have disclosed that might place you in the conflict of interest if you are confirmed?

REGAN:

I do not.

CAPITO:

Thank you. Thank you very much. And with that, I will start with the five minute questioning. First of all, thank you for your opening statement. Your pledge of transparency is something that I think we are going to hear a lot about today and probably in every administration, and this one certainly is no different.

So I'm going to begin where you and I talked on the phone and where I alluded to in my opening statements. And that is the fact of having a domestic climate czar in the White House who was a former administrator of the EPA who really doesn't have any accountability to Congress or to any of--of those of us who--for oversight. Apparently, her authority is very sweeping and she stated that every single piece of the federal budget will reflect climate change policy. Her remark demonstrates there is no part of the government within her reach. So have you met Gina McCarthy?

REGAN:

Yes, I have.

CAPITO:

You have. Have you talked about how the two roles that you would be fulfilling are going to interplay and--and how that decision making is going to roll out?

REGAN:

Yes, we have.

CAPITO:

And what was the substance of that?

REGAN:

I think the substance of it was recognizing that, with the president's ambitious goals, that there was an all hands on deck approach and that he would have staff in the White House that would have responsibilities and in participating in climate policy and that that task would also be before every single cabinet agency. And so I think that the--the crux of that conversation was recognizing that Congress has bestowed certain powers upon me as administrator, as well as certain accountabilities. And so I look forward to working with the president's staff, but also looking--look forward to working with every other cabinet agency as we develop a comprehensive pathway to reach the president's ambitious climate goals.

CAPITO:

Did you get a sense in the conversation with her that you would be reporting directly to her or to the president, or a little bit of both?

REGAN:

No, I think it's pretty clear that--that this position reports to the president. This position will be working with the staff in the White House and, of course, this position will be working with all of the cabinet agencies required for this whole of government approach.

CAPITO:

What about if there's a disagreement between the climate czar and the administrator of the EPA? I would hope that the transparency pledge would follow through on that if you reach decisions who's making that decision and how it was determined. How do you see disagreements being resolved when it's not inter--inter-cabinets, but with a czar and a--and a member of the president's cabinet?

REGAN:

You know, with every complex issue, we anticipate healthy debates. And I believe that the realities are we have different positions that we serve in the administration. So I have no reason to believe that the positions of the EPA and the positions of the White House staff will get equal hearings. And hopefully, we will have robust discussions in a manner that will yield the best results for the president to achieve this ambitious climate goal. (INAUDIBLE)--

CAPITO:

--Well, yeah. We certainly all want best results. That's in all of our best interest, as you emphasized in your--in your opening statement. I would like to ask you, one of the objections that I've had--I have had over the past is that when really difficult issues come in front of the EPA, that could result, as we saw during the Obama administration, drastic job loss--losses and a lot of economic downturn in a particular area that you would, and you and your agency would come and come to where the biggest impacts are going to be, to the people that--this was not done in the past.

And as I said, it still stings and it's not right. So I know you have a history of this in North Carolina. If you could--if you could pledge to me that you will continue that as an administrator, that would be good news for us.

REGAN:

Absolutely. In North Carolina, I realized very quickly that we could not solve the state's problems by sitting behind the desk in Raleigh. And I visited 90 out of our 100 counties in the state of North Carolina. Would have hit all 100 but for COVID.

I think I've pledged to you and many of you that I've spoken with that I do plan to respond to the invitation to visit, to spend time in your states with your communities so that we can have deep the best understanding of how the decisions we make will impact you all on the ground.

CAPITO:

Is it your understanding that the president intends to come back with a new version of the clean power plan?

REGAN:

You know, it's my understanding that we have to take a look at what was the plans for the clean power plan and what were the plans for the ACE rule. The reality is--is that it presents a significant opportunity for the Environmental Protection Agency to take a clean slate and look at how do we best move forward.

There are lots and lots of, I would say examples of success and failure that we've seen in past tries, and so I look forward to having an opportunity to do a few things. Number one, to not look back backwards, but to look forward. Number two, to convene all parties relevant to this discussion, and think about how we harness the power and the statutory authority of the Clean Air Act in concert with major investments that we should see governmentwide and the input and the statements from those who will be impacted by any potential actions we take, whether that be a rulemaking or whether that be voluntary.

CAPITO:

Thank you. That ends my five minutes. I would say I'll be interested to maybe follow up question on whether you think that means that we would go beyond the fence or not. That's a more difficult question. Senator Carper.

CARPER:

Yeah. Madam Chairman, if it's okay with you, I'm going to yield to others of my colleagues--colleagues. I'm not in a hurry. Maybe some of them are.

CAPITO:

Senator Inhofe.

CARPER:

Thanks.

CAPITO:

Certainly.

INHOFE:

Well, first of all, thank you very much. I've had the honor to

INHOFE:

visit with--with Michael Regan. And I've heard all kinds of good things about him, and I think we're going to get along real well. I--I have to--I told him during our introductory discussion how well I get along with particularly Lisa Jackson when she was in the previous--in the Obama administration. In fact, she liked me so well and I like her so well that we spent a lot of time together, and she even still today as my Christmas card picture of my kids on her wall. So, we want to have that kind of relationship with you, anything that's going to happen.

I have four things I just want to mention. There won't be time to cover them, so I won't come in--I won't be asking for a lot in specific responses. One is on the Green New Deal. Now, you hear all kinds of extreme interpretations as to what does that mean, things like banning fossil fuels and banning air travel, controlling how much beef we can eat and all these things. And the cost would be about $93 trillion. That I believe is accurate.

And--but the other thing that affects me, you know, parochially is that it's--it's war on fossil fuels. That--that was behind us, I thought, for a while. And it looks like it may be coming back. So, what I'd like to ask of you, Michael is that you sit down with me and other members of this committee and talk over the different aspects of that, what is alleged to be the Green New Deal and what it really is going to mean in terms of putting it together.

I--I--I agreed with Senator Tillis that you're someone who listens and you want to be fair. And I think that would be a fair thing to do. What do you think?

REGAN:

Well, I--I can pledge to you that I will move forward the way I have in North Carolina, which is using the power to convene, to bring everyone to the table.

I would like to say that President Biden as his own ambitious climate plan, one that we believe harnesses the full power of government, but not only looks at regulations that will come from EPA but investment strategies that come from the broader government. And so, I look forward to engaging with you and your colleagues on how we execute on the president's vision for an ambitious climate goal.

INHOFE:

Okay, that's--that--that's very fair. Now, the second of the four things I wanted to bring up having--having to do with the WOTUS bill, you know, back during the Obama administration, they had the WOTUS bill. And it was essentially, for those who might be new on this committee and not familiar what that meant, it's--is the water regulation that would be transferred from the states to the federal government. This is something that the American Farm Bureau and all of the agricultural organizations had down as its major concern at that time.

Then along came President Trump and change that, added a new rule that I thought was working quite well. My question on that one, though, would be that can--can we have a chance to talk about that, because that issue is going to be the one--and politically I have to say this too. It's the one that everyone ought to be concerned about because that is the number one issue in accordance with most.

The third thing I want to bring up is on pipelines. I noticed that you approved a permit for the Atlantic Coast pipeline. You denied a permit for the Mountain Valley pipeline. There--maybe for the record in writing you can come back and kind of distinguish between the two of them, what your feelings are about--about pipelines.

And lastly, I want to mention the small refinery exemptions. Now, in the state of--my state of Oklahoma, the--the Clean Air Act exempts small refineries facing with "disproportionate economic hardship from the costly renewable fuel standards." Now, the action I'd like to ask from you would be the United States Supreme Court has already taken up the case of HollyFrontier versus the EPA, which--it would seem logical to me that, before establishing any real policies concerning small refine--exemptions, it might be a good idea to get the response from the United States Supreme Court on that case. What do you think?

REGAN:

You know, I think that's a--one way to go. The one thing that I know I have to do is consult with our general counsel, understand where we are in the legal process--

INHOFE:

--Um-hmm--

REGAN:

--And also understand what options do we have to continue conversations. I think that the courts will give us some ruling, but I also don't want to lose the opportunity to take a look at what we've learned with the Obama-era Waters of the U.S. and the Trump-era Waters of the U.S.

As a state secretary, I was on the receiving end of both. I've had conversations with farmers about both. And I think that we do--

INHOFE:

--Um-hmm--

REGAN:

--Have a clear opportunity to look at how we protect our water quality while not overburdening our small farmers. And so, while we're looking at all of our opportunities through the legal system, I don't want litigation to stifle what we can come up with as stakeholders having a--a conversation.

INHOFE:

It's a--

REGAN:

--So, I'm looking forward to working with you on that.

INHOFE:

I look forward to it. Thank you.

REGAN:

Thank you.

CAPITO:

Senator Carper? All right. Senator Cramer?

CRAMER:

Thank you, Madam Chair. Thank you, Mr. Regan, for being willing to run the gauntlet and step up in this way. Congratulations to you. Congratulations to your family. It's great that you can be here. It means a lot to him and means a lot to us as well, so thank you for that.

I--I appreciate very much the--the time you took with me on the phone. I appreciate very much your reference to stakeholders often. That's a good sign. When we talked a few weeks ago, as you know, I--I was a fellow regulator. I spent nearly 10 years as an environmental regulator before coming to Congress in an elected position.

And in your nominating--in your nomination acceptance speech, and while today you referenced stakeholders, you also referenced the--the importance of states. And of course, being a former state regulator, you--you would do that. And you--you reiterated your desire to support states and not dictate to them. And of course, states are some of your most important stakeholders in this new job.

And--and I welcome that because I've spent a lot of time talking about cooperative federalism around here, the--the--the lack of it over the decades and centuries in--in many cases. And--and I'm just wondering, to this point, and I know it's early in the administration, but I've not seen a lot of cooperation coming from the White House. I've seen a lot of executive orders.

We've seen a lot of dictates, in fact, in--in--things like the--you know, the--the lease prohibitions or--or pauses on federal lands, the Keystone XL pipeline. And grant--granted, those aren't directly under EPA jurisdiction, but none of the states affected were ever consulted before the president signed those executive orders. I--I just--I want to hear from you how you'll be different than--that what we're seeing so far.

REGAN:

Well, thank you for that question, senator. And I too enjoyed the conversations that you and I had about the balance of--of state and federal government interaction. You know, I see the executive orders as setting goals and setting vision. But in those executive order--orders, they leave plenty of room for how these things would be implemented.

The reality is that these cabinet agencies will be implementing and executing these visions. And so, we have a ton of time, in my opinion, to aim for these goals but massage the processes which we will achieve those goals.

And so, you know, I want to do what I've done in North Carolina and done, I believe, fairly well, which is convene the stakeholders that will be impacted by these decisions, look at the rulemaking processes, look at the voluntary actions, harness the power of our private sector who are creating these jobs, and--and--and, you know, following the--the trends of the market rent, to think through what are the proper actions we can take collectively to meet and possibly exceed the goals of these executive orders.

So, I--I think the--the substance and the crux of how we execute on these executive orders rely or reside in these cabinet agencies. And I look forward, I look forward to having conversations with you, your staff, and others on how we get there.

CRAMER:

I appreciate that. And I think you and I are going to have a lot of good discussions, quite honestly. And I'm grateful for--for your sentiments. I was thinking about specifically, and probably in a later round or maybe even over coffee sometime, we'll talk more about things like the methane rule, for example, that--that--that tends to--a one-size-fits-all methane rule tends to disqualify states that already have methane rules. And it's a--it's an important, I think, area of--of some exploration. It's a--a specific case study, but there are a lot of those.

You know, we've--you've heard already and we talk some already about Waters of the U.S., a Clean Power Plan. And as you know from your previous experience at EPA both these rules under the Obama administration faced serious legal hurdles. I mean, North Dakota non-led one of the most successful WOTUS challenge with 11 other states in litigation and joined West Virginia in its clean power plant case. Based on your review of those cases, obviously, you know them well. Do you think that the rules had some shortcomings, and if so, what were they?

REGAN:

You know, one of the things I have always pledged is I would follow the science and follow the law, and the courts have actually obviously had their opinions about these laws. I will say there's two ways I look at this. As a former state regulator, the lack of certainty and the litigation has been very painful for us who are trying to get the business of our states done, so that is the downside.

The upside is as administrator, I have the ability to look back at what we have learned and what worked and what didn't, and we can apply those lessons learned to how we are going to move forward, so I'm grateful that we have sort of worked out some of those kinks and we understand where the limits of the law are. It is my desire to follow the law, not exceed my statutory

authority, and I believe with the proper stakeholder engagement, I think that we can forge a path forward, and I look forward to that.

CRAMER:

I look forward to continuing the discussion in round two. Thank you.

CAPITO:

Thank you, Senator Cramer, and remotely Senator Cardin.

CARDIN:

Thank you, Madam Chair. Mr. Regan, I enjoyed our conversation that we had, and I want to follow up on my--my favorite subject, which is the Chesapeake Bay. As I had a chance to talk to you about the Chesapeake Bay it is the largest estuary in our hemisphere it has been declared a national treasure by the last several administrations, and it is challenged in regards to its environmental needs.

So under the Obama administration and we had a special assistance for the Chesapeake Bay that was referred to as the Chesapeake Bay czar that acted as a point person to deal with administering the federal program under EPA for the Chesapeake Bay, a program which has been funded by Congress and increased the authorization and funding in the last couple of Congresses so we have been supporting this but having a special assistant that can coordinate not just the activities within the Environmental Protection Agency but the other federal agencies that play such a critical role in our plan to restore the quality of the Chesapeake Bay, the Department of Agriculture, the Army Corps of Engineers and talk about some of the other programs that are involved.

So I would like to get your cooperation on how you will administer the Chesapeake Bay program considering reinstating the special assistant so that we can have a focal point in the EPA working with the other agencies to advance the Chesapeake Bay program, a program that is supported by six states and many stakeholders in which the federal government really operates as independent referee in regards to our efforts to deal with the Chesapeake Bay. Can we work together on this, and will you consider appointing a special assistant?

REGAN:

I thank you for that question, Senator Cardin, and during my first stint at EPA when I lived in this area for about ten years, I learned firsthand that the Chesapeake Bay is indeed a national treasure, so you do have my commitment that we will look for the resources, all of the resources that we can bring to bear to protect the Chesapeake Bay.

CARDIN:

I thank you for that, and I hope that you will appoint a special assistant because I think that is critically important in coordinating this. I will just give you a couple of examples.

We have recently are about ready to complete our environmental restoration project that deals with disposal of dredge material at Poplar Island, which has been a win-win situation. It has been--it's--it's received the dredging material as well as restoring a previously livable island that has now been restored as an environmental project. We need to move forward with the second of these plans in mid-bay, and the Army Corps has given a green light for that, and we are going to be moving ahead with it.

My point is this as part of the Chesapeake Bay program, it needs to be coordinated with the Environmental Protection Agency. We have oyster restoration programs, as I am sure you are aware, the oysters are critically important to filtering the quality pollutants out of the bay. Our historic crop on the Chesapeake Bay is a fraction of what it was 100 years ago, so we have had a very active oyster restoration program in both Virginia and Maryland, which funding comes from various agencies, but it is important that the EPA act and help us in making sure all of the pieces come together so that we can meet our commitment under the 2025 deadline.

So are you prepared to advocate on behalf of the Environmental Protection Agency with other agencies in order so we can achieve our goals under the Chesapeake Bay program?

REGAN:

Thank you, senator. I am. I am committed to advocating so that we meet those goals. I am committed to looking at how we have adequate resources to achieve those goals, and I can tell you what I am actually doing now.

I have been successful in prioritizing an agricultural czar or advisor an environmental justice advisor, and I am now looking into our resources for the potential for someone to coordinate on the Chesapeake Bay. The--the previous administration and budget process has not been kind to EPA, so we are being creative as to where we can get the resources to do that. What I can assure you is we have adequate resources to execute on our obligation to protect the Chesapeake

Bay, and we are looking for additional resources to hire that coordinator to ensure that we hit all of our targets on time.

CARDIN:

I think I might want to quit while I am ahead. That is (INAUDIBLE) what I wanted to hear. I will just mention one last thing in closing, and that is the WIP plans that we do need you to be aggressive in making sure all states carry out their commitments. We depend upon each state carrying its own load, and we have had challenges with some of our states, so we hope that you will be aggressive in working with us.

It is a ground-up program, but we do need the federal government to come in where needed to make sure that we all do what we can with best science, so thank you very much and thank you for your willingness to serve in this critically important position.

REGAN:

Thank you, sir.

CAPITO:

Thank you, senator. I am going to go to Senator Whitehouse now. We are going to--and then we will get back onto one Republican, one Democrat. I kind of got us a little bit out of order there, so Senator Whitehouse are you on?

WHITEHOUSE:

Yes, I am.

CAPITO:

Thanks.

WHITEHOUSE:

Thank you, Chairman Capito. I appreciate it. And Secretary Regan, welcome to the EPW Committee, not for your last time, I hope. A couple of things.

First of all, please be advised the Chesapeake Bay is not the only bay on the east coast. There is a little state called Delaware that might have some interest in that has a Delaware Bay, and those of us from further north are very excited about the clean, clear waters of sparkling Chesapeake Bay, so I appreciate your interest in the Chesapeake but let's make sure we think of all of the bays.

You mentioned earlier on in the hearing that it would be your policy don't look backward, and I just want to warn you about that. You will be coming into an agency that, in my view, was more or less captured by the fossil fuel industry agency capture, administrative capture is something people have talked about for years. I think this is a particularly flagrant example that we witnessed of agency capture, and I think it left a trail of damage to the institution; it left a trail of conflicts of interests, particularly on the scientific advisory groups, it left a trail of rulemakings thrown out for pretty patent violations of administrative law, it left a trail of FOIA failures and QFRs unanswered.

And I suspect you will find a good deal more when you get in as people come forward and are prepared to describe things that took place in the previous administration and maybe even some who couldn't bear it and left might very well come back with some stories. And I think if you are the captain of a ship that has sustained some serious damage you can't just look forward, you have to look at the ship and you have to make sure that you have done damage control assessment and know where the damage is and have a plan to repair it because otherwise you are never going to perform at the levels that you should and your operating folks are not going to be able to focus on moving forward because they will be all tangled up in trying to undo the messes that you haven't paid attention to.

So I am interested if you could explain a little bit more what you meant by don't look backward.

REGAN:

Well, thank you for that question, senator, and I think that that is sort of a metaphor for visioning. I think that

REGAN:

have to be optimistic and look forward in terms of all that we believe we can accomplish and that the future is bright. Obviously, you raise a very good point, a point that I have practical experience in. When I inherited the Department of Environmental Quality in 2017, morale was low. Decisions had been made that we didn't believe were transparent and didn't bring forth the proper science and data. And so we did have to do a damage assessment.

We had to take a look at what had been done, what had not been done, and we quickly had to rectify those situations and began to move forward. We have a short amount of time, so we're going to have to walk and chew gum at the same time. My goal is to do an assessment to determine how can we best move forward, learn from the past, but stay leaning forward as we solve some of these complex issues.

You know, there are a lot lots of staff at EPA right now doing over evaluation of a ton of rules and activities that may or may not have been done in a transparent manner for leverage the science the way we'd like. And so we're going to correct that. We're going to correct that and then we're going to begin to carry this country forward.

WHITEHOUSE:

Well, I'm going to ask you two things in that context. One is I've written quite a lot about the problems at EPA and I will find with my team one of the either comments or briefs that I've written and I'll just send one to you so that you have a sense of where I have seen this agency go. And I would ask that you read it before our vote just so that I can know that you've seen how I feel about this.

The second thing is that I'll be coming with you, as will other senators with questions and we would really like to see the questions answered. Where we've been stonewalled on questions in the prior administration, we'd like to have backlog of questions cleared. Where FOIAs have been stonewalled, we'd like that backlog cleared as well. I think if you're talking about transparency, you're going to have to make a particular effort to tear down the stone role that surrounded the fossil fuel fortress at EPA in the last four years. I hope very much you will agreed to read the thing that I send you and be as cooperative at the law permits in answering our questions, particularly our backed up questions.

REGAN:

Absolutely, senator. Thank you for that question, and you have my commitment that, number one, myself and our staff will read all documents sent to us by this model body. Number two, it's an obligation of all of us as public servants to be as transparent as possible to this body and to the

public as we look at information and develop decisions for moving forward. So you have my commitment to read those materials. You have my commitment for transparency, and you have my commitment as a very strong partner in how we move forward.

WHITEHOUSE:

Last thing. The Clean Power Plan proposal by the Obama EPA has been thrown out by the court. You, as you have said, have now a clean slate to go forward. I'm hoping that, as you look at the problem of large-scale emitters, whether they're industrial emitters or utility emitters, you will take a look at carbon-capture technology, which has moved enormously forward in the years since the original Obama Clean Power Plan.

And I would note for you that Chair Capito and I, who have rather different views about climate issues and fossil fuel emissions and so forth, have worked together along with a lot of other colleagues and a very bipartisan support for carbon-capture technologies, including an expansion of 45Q in the last bill that we passed in bipartisan fashion in the last Congress. So I'm hoping that you'll take a hard look and make sure the people in your staff have the technical support necessary to understand whether carbon capture is a best available control technology for carbon emissions, which are a pollutant under the Clean Air Act. And as long as you've got people looking at that and are giving it a--a fair and honest look, that's all I ask right now.

REGAN:

Well, thank you for that question, senator. And you have my commitment to--to look and--and determine the commercial viability of carbon capture and sequestration. I can tell you that I've already had conversations with Jennifer Granholm at DOE and others. There are lots of resources that we can pour in terms of research and development to make sure that carbon capture, sequestration, and storage is on the table.

And listen, one of the benefits--one of the benefits we have of starting fresh is over the past couple of years, we have seen enormous strides in technological advancements. And the good people at EPA are ready to take advantage of what we've learned from the past rules and what we've gained in terms of technological advancements. So we're excited about charting this new course.

CAPITO:

Thank you. We'll go to Senator Braun.

WHITEHOUSE:

I don't have a clock, but I've probably run out my time--

CAPITO:

--Yeah, you probably are out of time--

WHITEHOUSE:

--(INAUDIBLE) thank you--

UNKNOWN:

--By a lot.

(LAUGHTER)

CAPITO:

Thanks. Senator Braun.

BRAUN:

Thank you, Madam Chair. I share that same enthusiasm as Senator Whitehouse and have a tendency maybe to go a little overtime myself now and then, but I'll try to keep it within the five minutes. Enjoyed our robust conversation we had last week. There was a lot of common ground in terms of especially being open-minded in terms of how we view such a important issue as the environment and climate in general.

I'm the founder of the Senate Climate Caucus on the Republican side and we now have seven members on each side of the aisle weighing in. And over the last year, I think what amazes me most, I think I shared it with you when we spoke last week was the broad array of interest in terms of weighing in.

And I was surprised in the business community that it goes beyond just agriculture, transportation, energy production. Almost everyone, I think, wants to be part of it. And I think one of the defining points of view would be how do we do it and how do we pay for it, which that subject hardly ever comes up on anything we talk about here in a way that is really meaningful that addresses it up front.

Where do you stand on trying to take innovation and technology? We have a recent reference to what we've done with vaccinations addressing the COVID challenge and look what was accomplished there by really galvanizing kind of innovation maybe already in motion to do so quickly, accomplish a result that's going to probably be what puts that in the rearview mirror. Tell me how you think we do that as opposed to maybe the approach up to this point that's been more costly, which has been a highly regulatory approach.

REGAN:

Well, thank you for that question. And you know, in North Carolina, I will say what we did was we took a look at regulations. And number one, we wanted the regulations to be flexible enough for the interpretation or the interpretations of the regulations to be flexible enough to allow for innovation. We can't achieve our goals without a very strong public-private partnership. And we know that our private partnerships are really on the cusp and drive the markets.

And so my--my strategy has always been engage our private sector counterparts, take a look at the intent of the regulation and the law, ensure that there aren't too many administrative burdens, and look at what can be gained if we can find efficiencies in the execution and implementation of those regulations. One of the things that pained me the most in North Carolina, and I think I'm going to have the same problem at EPA is the stripping of the budgets don't prevent an agency from writing a regulation. It prevents an agency from providing technical expertise and experience to our stakeholders who we want to see drive innovation while achieving those environmental goals.

So my pledge is to be as collaborative as possible while developing any regulations that might be needed, looking out for those administrative burdens and then having our agency as partners as we execute on the implementation of those regulations. But I do believe that regulation is not the sole answer, and so I will be partnering with my counterparts at the Department of Energy, Department of Agriculture, Department of Defense, all of which I've already talked to in terms of how do we solve some of these complex problems that we are facing.

BRAUN:

The second question, I think we discussed it a little bit last week as well, would be the global responsibility in terms of tackling the issue of climate change and how we turn it around, how we pay for it. What is your feeling in terms of that approach of thinking that we need to do even more on our end when we're of the larger economies the one that's got emissions headed in the right direction? How will that thought of getting the rest of the world involved, especially doing more than saying they're going to do something, making in the way that you can weigh in to help places like China, Russia, India that, yes, that you're putting these goals and statements out there but your actions show otherwise it. And whatever that occurs, that means we're disproportionately paying for things again, when that's probably the weakest part of what we bring to the equation now is our federal balance sheet and our ability to do more until we get that in order. Please comment on that.

REGAN:

Thank you, senator. That's an excellent question, and that's a question that requires partnership. That's not going to be driven solely by regulation. I think that what we're trying to do, the president's aggressive climate plan looks at capturing the market so that we are globally competitive.

You know, in North Carolina as secretary--Senator Tillis mentioned when he was speaker of the house he was a really strong proponent of a balanced approach for solar energy. North Carolina is now second in solar installation in the country. What we find is most of the parts that we want to install come from China. We're finding that if we don't capture the market, we're going to fall behind. I believe that's the same for solar, it's for cars. There's a lot that we can capture in terms of manufacturing and the like to remain globally competitive.

So, what I believe you're seeing with the president's approach is not to the country skating to where the puck is, I'll borrow from Wayne Gretzky, we're trying to skate to where we believe that puck is going to be. And if we can design regulations that are complementary to the types of investments in research and development that we need to harness the power of the private sector and create new jobs, I believe that this country will be a global leader and other countries will follow.

BRAUN:

I'm over my--

CAPITO:

--Thank you, senator. Yeah, sorry.

BRAUN:

Yeah, thank you.

CAPITO:

Yeah, sorry.

BRAUN:

Go ahead.

CAPITO:

Senator Merkley?

MERKLEY:

Can you hear me okay?

CAPITO:

Yes.

MERKLEY:

Okay, great. Thank you, Mr. Regan. I wanted to start by asking if you are familiar with the Presidential Plastics Action Plan that some 500 environmental groups have--had to put together.

REGAN:

Yes, vaguely.

MERKLEY:

Okay. And would you consider committing to taking a--a very close look at it?

REGAN:

Absolutely. We'll take a close look at it. We'll evaluate EPA's role, and we will partner with you on advancing that.

MERKLEY:

Thank you, because there's a whole lot that can be done. We have the--the challenge from plastics in a couple of--of ways. One is that the production of plastics produces a tremendous amount of greenhouse gases.

And second is plastic, when it through with a single life, is rarely recycled. We have that--that slogan about recycling, but in fact a more accurate slogan would be it's either burn or it's buried or it's bourn to sea, where it causes all sorts of environmental problems floating in the--in our rivers and our--and our oceans. Do you agree that this is a significant challenge that we need to--to work to take on?

REGAN:

I do agree that it's a significant challenge look at the role of plastics, especially the impacts that we've seen with our marine life and our coastal communities.

MERKLEY:

Well, I see it very much in Oregon's coastal community. I know you see it from the other side of the hype and the country. And it's a--it's a--it does create all sorts of issues.

The EPA has an environmentally preferable purchasing program where they have the power to set an example and help introduce more sustainable products in place of single use plastics. Will you take a--a look at that program and the possibility of EPA using that as a--an opportunity to--to show what can be done to replace single use plastics with more sustainable products?

REGAN:

Absolutely, senator. Where there is a program at EPA and where we have an opportunity to be a global leader, we will do an evaluation and we'll put our shoulder to that wheel.

MERKLEY:

I wanted to turn to the topic of asbestos. Most nations in the world have--have banned asbestos for all the reasons that we're familiar with. In 2016, we took another stab at this by passing in a bipartisan fashion the Lautenberg Toxic Substances Control Act, the (INAUDIBLE), the Lautenberg version of that.

And not much action has happened since 2016. In December, so just over a month ago, there was finally a part one risk evaluation done at EPA. And it did find that there were unreasonable risks of--of cancer, but the science advisory committee that looked at the work of EPA said, well, you didn't consider all the asbestos fibers. You didn't consider all the different asbestos diseases. You didn't concern--you didn't look at all the different routes and pathways of exposure. So, you really did a very minimal job, not capturing the full impact.

Would you consider having the EPA redo that part one evaluation to kind of get this right and use the best science to really see what the risk is to human health?

REGAN:

Thank you for that question, senator. And absolutely we'll work with my staff to take a look at that evaluation, determine where those data and science gaps are, and then--then govern ourselves accordingly moving forward.

You have my pledge that, as we take a look at all of these, number one, the processes that we undertake will be much more transparent. Number two, we will use the latest science and the later--latest data. A number three, our--our results should be supported by the science and by the law. So, you have my commitment to do that.

MERKLEY:

Thank you. And one of the things that we--we know is that so often different facilities are located near low income communities, communities of--of color, and it's a disproportionate impact on our--from our manufacturing system on the--on the health of low income or

community--or communities of color. And in this sense, there's a lot of issues of--of environmental justice. And do you feel like you're pretty well read into that set of challenges and--and have some ideas on how to tackle it?

REGAN:

You know, I will say that I am very enthusiastic about the president's commitment to environmental justice and equity. It's something that I've spent a lot of my career on. My first stint at EPA was focused on environmental justice and equity issues. I established the first environmental justice and equity advisory board in the state of North Carolina, bridging environmentalism and civil rights to find solutions for our fence line and disproportionately impacted communities.

There's some work that we have to do at EPA to take a look at restructuring and--in making sure that we have adequate resources to address environmental justice. So, not only do I look forward to structuring EPA so that we can adequately respond, but I look forward to partnering with you and Congress so that we can be sure that where we have gaps in our laws and regulations that we can rectify that so that we are ensuring all Americans have access to clean air, clean water, and clean environments to live in.

CAPITO:

Thank you.

MERKLEY:

I think I'm running out of time.

CAPITO:

Yes.

MERKLEY:

I don't have a clock in front of me. So, Madam Chairman, I'll just close by saying that the biggest challenge testing human civilization is whether we can tackle climate chaos. I know you're well familiar with the issue and look forward to working with you in--in that endeavor.

REGAN:

Thank you, senator.

CAPITO:

Thank you. Senator Barrasso?

BARRASSO:

Thank you, Madam Chairman. Mr. Regan, congratulations on the nomination. The--you know, despite calls for unity during his inauguration speech, President Biden took immediate damaging and divisive action. He canceled the Keystone XL pipeline and, with it, thousands of good jobs, some union jobs, some nonunion jobs, but thousands of good jobs.

He threatened tens of thousands of jobs in my home state of Wyoming and across the country when he halted oil, gas, and coal leasing on federal lands. He ceded American environmental and economic independence to the European Union and China when he rejoined the Paris Climate Accord. And he opened the door to revisiting some of the most economically devastating regulations from the Obama era like Waters of the United States, the disastrous clean power plan, and many more.

It does seem that, with every cam--campaign promise that he delivers, President Biden is also delivering pink slips to hard-working men and women in Wyoming and across the country. Despite the dizzying pace of the president's job killing executive actions, many on the other side believe that he should do more and do it more quickly. Senator Schumer said that the other day on the floor.

Some believe the president should immediately declare a climate emergency. Such a declaration, of course, would silence Congress, would silence states and the American people during one of the most consequential discussions and decisions of our time. I think it sidelines workers, industries, families who already struggling to make ends meet during these difficult times.

So--so, the question for you is do you believe the president should circumvent Congress and the will of the American people by declaring a climate emergency?

REGAN:

You know, I do believe that we are facing a dire situation with climate change impacts, but I don't think that that's to negate the fact that we all understand the anxiety and the fear as we make this transition that folks in your states have in states like West Virginia and North Carolina and other states.

What I believe is that the president has an aggressive agenda that looks at the whole of government and

REGAN:

what I know is we have been instructed that we are not to leave any community behind. In order for us to be successful in every state and every community has to see itself in our vision. I will be careful and never say we are looking at clean jobs; we are looking at all jobs. Many of these jobs should transition as we look forward to protecting ourselves from climate change and the climate change impacts.

So I look forward to working with you on how we ensure that we don't leave any communities behind and that as we invest in our infrastructure whether that's our grid, our water infrastructure, whether we invest in pipelines that are leaking, transportation, bridges that we do that in a way where we are consulting your constituent so that we can adequately address this climate change while growing as many jobs as possible.

BARRASSO:

Well, I appreciate that answer because as you know senator--former senator John Kerry has said that people who are working in the industries in Wyoming they need to make better choices and that it was interesting the Washington Post fact-checker also referred to his comments as being misleading and providing false hope and Secretary of Energy nominee she talked about jobs being sacrificed, so I appreciate what your comments on the jobs and the focus there.

I want to talk about small refineries. You know, unlike large oil refineries, the small refineries don't have the economies of scale to comply with our nation's biofuel mandate, the renewable fuels standard. That is why Congress allows small refineries to petition the EPA for what's known as hardship relief, this has been going on, and this is in law. Before deciding whether to grant relief, the administrator of the EPA by law is required to consult with the Secretary of Energy.

Now under the last two administrations, federal courts have rebuked EPA and the Department of Energy both for failing to account for all of the challenges that small refineries face under the RFS. So if confirmed, will you ensure that the EPA fully accounts for the challenges that small refineries face when evaluating these hardship relief petitions?

REGAN:

Thank you for the question, senator. If I am confirmed, I commit that we will fully follow the law, and I commit that we will fully be transparent. I am not certain that either side understands how these decisions were arrived to and so I think it's very important that we have transparency, that we use sound science and follow the law in a deliberative process by which we communicate with you all so that you understand the decisions that we make.

BARRASSO:

Madam Chairwoman, I have some additional questions, but with your permission, I will submit those in writing.

CAPITO:

Sounds good. Thank you, senator. Senator Gillibrand?

GILLIBRAND:

Thank you so much, Madam Chairwoman, for your--for this hearing. Secretary Regan, thank you for testifying today and for your willingness to serve as our EPA Administrator. The EPA does a lot of work to restore its mission to protect human health and the environment, and I know you will have many priorities on your plate once you are confirmed.

One area that I hope to prioritize is the PFAS chemicals. I am grateful that President Biden included PFAS in his Build Back Better plan and this administration has an opportunity to make real progress in reducing people's exposure to this very toxic chemical. As we discussed when we spoke a few weeks ago I have been working on bipartisan legislation with Senator Capito that would require EPA to set standards under the Safe Drinking Water Act for PFAS. Just days before the end of the previous administration the EPA under Administrator Wheeler issued a regulatory determination to begin the process for setting drinking water standards for PFAS; however, in my view, the previous administration did not move with a sense of urgency that we need on this issue.

So my first question is this, will you make PFAS and agency-wide priority at the EPA so that more time is not wasted while families continue to be exposed and harmed by these very toxic chemicals?

REGAN:

Thank you for that question, Senator Gillibrand, and you know you, and I and Senator Capito know all too well the devastating impacts to our states by the lack of action on behalf of EPA. PFAS, perfluorinated compounds, will be a top priority for this administration. We will pursue discharge limits. We will pursue water quality values. We will pursue all avenues that we can while we are developing these rulemaking processes to give the proper signals to states so that states can take the appropriate actions like we have had to take in North Carolina.

GILLIBRAND:

And will that include setting a drinking water standard for PFAS?

REGAN:

Thank you for the question, senator. What I plan to do is sit down and spend some time with the staff at EPA, with our counsel, to understand the multiple avenues I believe we have at our fingertips to address PFAS.

GILLIBRAND:

Thank you. You were one of the first state environmental leaders to regulate industrial discharges a PFAS, and I know it's an important issue. It has been estimated that there could be 2500 manufacturing facilities discharging PFAS into the air and water across the country. I have authored legislation in the Senate to regulate PFAS under the Clean Water Act, which would require industrial discharges to be subject to permitting and pretreatment standards. Given your experience at the state level, what is your vision on how EPA should approach industrial PFAS pollution in order to prevent more PFAS from entering the environment in the first place?

REGAN:

Thank you for that question, and I think there's a lot of wisdom in the vision and the direction that you are headed. You know we need to have a full accounting of how these forever chemicals are entering into our water as well as our air, and so I think we need to take a look at the discharge of PFAS from a water quality standpoint. I think we need to take a very strong look at the emissions that are coming from the combustion and incineration of products that yield PFAS into our atmosphere. I can commit to you that on day one that this is and will be a priority for this administration to set limits on how much of this chemical compound is entering into our air and our water.

GILLIBRAND:

Thank you. One more question. Another area that we have previously discussed which is very important to my state is the continuation of EPA's geographic programs and, in particular, the Great Lakes restoration initiative and the Long Island sound study. Both of these programs have been essential to improving water quality and cleaning up harmful pollution.

We have had bipartisan success over the past several years in sustaining and growing these programs, and I hope that under the Biden administration, these programs will have the full support of the EPA and the administration as a whole. Will you support robust funding to continue these important effective programs?

REGAN:

Thank you for the question, and we will pursue the adequate funding, robust funding to support these regional and state programs. Again it is my belief that the federal government should provide support to our regions and our states, who know their constituents much better than the federal government ever could.

GILLIBRAND:

Thank you. Thank you, Mr. Chair--Madam Chairwoman.

CAPITO:

Thank you. Senator Sullivan?

SULLIVAN:

Thank you, Madam Chair. Mr. Regan, congratulations on your nomination, and I want to follow on where Senator Barrasso was going. I have been very concerned about the initial executive orders coming out of the White House.

As a matter of fact, I led a letter with 25 senators, so over one-quarter of the entire U.S. Senate to the president asking for a meeting on his plans, particularly as they relate to energy-related jobs. I am really concerned when you see John Kerry, Gina McCarthy, who are at the White House already setting policy, and I know the Chair has expressed concerns about who is going to be in charge. I think it should be you since you are going to be Senate-confirmed if you are confirmed, not two unconfirmed officials who are clearly taking the reins.

But when John Kerry talked about well, where President Biden wants to make sure that folks have better choices like solar panels, I talked to my leadership in Alaska, union leaders--A. they find that attitude very condescending, cavalier. We are going to kill a bunch of good oil and gas job so we can tell you what's better. Can you talk to my constituents about how you believe or what is your thought on the policies that right now appear to be killing jobs, good jobs during a recession with nothing to replace them? There's no solar jobs, as John Kerry says in my state when the risk of hundreds if not thousands of jobs are going to be going away in the oil and gas sector? I would like your views on this.

REGAN:

Well, thank you for the questions, senator, and it is, you know, my belief and firm understanding to answer the question "who is in charge?" President Biden is in charge and I think he has assembled--

SULLIVAN:

Okay, I get that; I understand. Sorry to interrupt you, but if you are confirmed who is going to be in charge below President Biden?

REGAN:

Thank you for--for that. If I am confirmed, then I believe Congress has bestowed certain powers and authorities and accountability to me as the Secretary of EPA.

SULLIVAN:

I would agree with that.

REGAN:

So where the decisions are in EPA's purview, I can assure you that I will be leading and making those decisions and I will be accepting the accountability for those decisions. I believe that the executive order that the president issued to pause the new sale of oil and gas leases doesn't impact the 90 percent of oil and gas activities that are occurring currently. And so the role of EPA is really to work with you, to work with your constituents, to work with the industry to look at a rule that would be best structured to reduce the methane emissions that are coming from those activities.

SULLIVAN:

Let me ask you this. In this sector though, you we're going to have a lot of power. Do you think it's a good idea to be killing any jobs when we're in this major recession? Chuck Schumer is talking about a $2 trillion stimulus package because of the high unemployment rate. The president of the United States in his first week in office is putting thousands of people out of work. Is that a good idea? Do you support that?

REGAN:

You know, I don't think it's a good idea to kill jobs. I think it's a good idea to ensure that we are trans--transitioning the economy towards where we know the jobs will be.

SULLIVAN:

Okay, but if there aren't jobs to be transitioned--this is my whole problem. This is why we want to talk to the president. Right now, they look like they're putting forward a strategy that will crush jobs, lower the amount of energy we produce, and the only replacement is no jobs in this sector and importing more oil and gas from countries like Russia and Venezuela. It's--it's a policy that makes no sense. Help me again on the jobs.

REGAN:

I think when we look at the jobs, we're looking at the full breadth of what the president intends, which are major investments immediately in infrastructure. Infrastructure in terms of making

sure that the pipes that we have are not leaky and are reducing the climate impact, making sure that we invest in our water quality, water sewer, water infrastructure, looking at a more intelligent grid, looking at roads and bridges. I believe that many of the jobs and the skill sets that people have in your state and other states can move quickly to those jobs while we also look at the advancements of other research and development opportunities to position the very communities that supported this country during the industrial revolution--

SULLIVAN:

--That's right--

REGAN:

--And made this country competitive. There is a path. There is a vision (INAUDIBLE) the states--

SULLIVAN:

--But let me--I'm sorry Madam Chair. Just one final--final follow up because this is a really important topic. The secretary of energy in her confirmation hearing kind of indicated that "some jobs may have to be sacrificed." Again, we are in a deep recession. There's millions of people out of work. These are some of the best jobs in the country, certainly in my state.

These are common to your point, and I appreciate you raising this, the men and women who built this country and yet, right now, when you ask any of the union leaders, these are great union jobs, by the way, building trades. When you ask them what--if you lose an oil and gas job in Alaska or North Dakota or Texas, what can you replace it with, jobs that would be sacrificed, nobody has an answer. It's a strategy and a policy that makes no sense, which is why we want to go see the president.

The White House press secretary said, "Sorry, the president is not interested in meeting with one-quarter of the Senate on the issue of jobs and energy." I hope he changes his mind. And if you get confirmed, maybe you can convince us to talk about this really important issue.

CAPITO:

Thank you.

REGAN:

Thank you for the question, senator. And what I can assure you is if I'm confirmed, I will be sitting down with you, hopefully by invitation in your state talking to you--

CAPITO:

--Well, we're going to get to round two comments so trust me, you're going to get that.

(LAUGHTER)

REGAN:

All right, sounds good.

CAPITO:

Senate--Senator Booker.

BOOKER:

Thank you, Madam Chairman--

CARPER:

--Madam Chairman, can I ask unanimous consent to enter to the record statements to place AFL-CIO, a Biden executive order support letter into(PH) the record and also a statement to place the Forbes Obama job-growth article into the record? I ask unanimous consent.

CAPITO:

Without objection.

CARPER:

Thank you.

SULLIVAN:

Madam Chair, I'm sorry, can I submit another letter to the record? Maybe I'll do that on my--it's a different letter from the Laborers' International, the pipefitters, their statements on the jobs that have been killed in the building trades that I think would be very (INAUDIBLE)--

CAPITO:

--You can make that motion if you want to make it now--

SULLIVAN:

--I would like to admit that for the record.

CAPITO:

Without objection. Senator Booker.

BOOKER:

Chairwoman, thank you very, very much. Mr. Regan, it's very good to see you here at all--I look forward to--I'm very excited to vote for you for confirmation. I'm really disturbed. I've--I've traveled through this country. I was one of the founders here in the Senate of the environmental justice caucus along with the soon to be chairman and another one of my incredible colleagues, Tammy Duckworth.

I took a journey through environmental justice issues from toxic sites in my own state that have laid languished, led problems facing my children, but I didn't stop there. I traveled from Lowndes County--County, Alabama and saw horrific evidence of tropical diseases because of the sewage problems there. I was in Duplin County, North Carolina and met with activists there who, one Vietnam veteran said I left Vietnam, came home, and I've been a prisoner in my own home because of that massive corporate polluters in his state.

I've traveled over to a place in America, you could just Google it by calling it cancer alley along the Mississippi River in Saint John's parish where there are factories. I just sat--stood there and

watched them and saw the air quality reports polluting the air in these low income communities. And--and Uniontown, Alabama, I could go on, to the places that I've gone in this country where you have Americans being poisoned by environmental injustices.

What--what made most of the communities I visited more galling is most of them were low income communities and most of them were communities of color. And I was surprised--I'm a senator from New Jersey. I remember in a black church in--in cancer alley packed full of people, each of them coming up to talk about the numbers of their family members that have died from cancer in that cancer cluster. All packed together to see one federal official. And they just said they feel like nobody in the federal government cares about them.

We--we live in this country that is such proud ideals, but we have fallen so short. The number one predictor, in fact at this point of whether you're going to live around toxicity, whether you drink polluted water or breathe dirty air is the color of your skin. And so I--I just want to ask you just point blank, you--you are, should you be confirmed, are to be at an agency whose civil rights division has been eviscerated over the years where people who look for you to help, you're--you're not even equipped, in my opinion, to actually begin to fight against this--these issues that affect millions of Americans.

We talked about Flint, Michigan. Three--there was at least 3000 jurisdictions where children had more than twice the blood lead levels of Flint, Michigan. And so if confirmed, will you make reforming and strengthening the EPA civil rights office a priority?

REGAN:

Thank you for the--the question and the statement, Senator Booker. And environmental justice is something that is near and dear to my heart and it's been a part of my career since I started at the EPA the first time around. I agree with you that the justice system in this country are failing--is failing in a number of areas, including in the environmental justice arena.

What I plan to do, first and foremost, is find the resources and establish and environmental justice adviser to the administrator. The second thing we plan to do is look at a restructuring and reorganization to be sure that our office of civil rights and we have adequate staff from every media office that is paying attention specifically to environmental injustice.

And number three, you all will hear from me frequently that we do need or will need additional resources if we are to commit to environmental--to solving environmental justice and equity issues. In North Carolina, I established the first environmental justice and inequity advisory board just because as a government, we think we know until we start to hear directly from the community.

BOOKER:

And I'm going to pause there because I do not want to go the eight or nine minutes over that one of my other colleagues went and I want to just--there's another group of people there are disregarded, disrespected, discounted in our country, and that's agricultural workers. And last October under the Trump administration, the EPA finalized a rule to weaken the agricultural work worker protection standards. Safeguards meant to protect farm workers, their families, rural communities in general from the harms of toxic pesticide exposure. We know that these rule--that these rollbacks would result in farmworkers in nearby communities being a greater risk of being sprayed by--accidentally spread by pesticides. I've met with farmworkers. I've heard their stories we know that chlorpyrifos, for example, is a pesticide the federal scientists have determined to be highly dangerous for farmworkers and can cause brain damage to--to the young children of these farm working families.

EPA scientists have twice recommended that the EPA ban the use of this pesticide. Seven countries in the EU have banned it. And so, I--I want an affirmation from you that you will not render farmworkers in America invisible, that their cries for justice, that the health of their children, that these people who are an integral, indispensable part of our food systems will be treated with human dignity. Can I get an affirmation of that?

REGAN:

Absolutely. You have my confirmation on that.

BOOKER:

And would you consider putting science ahead of big business when it comes to the chemical chlorpyrifos?

REGAN:

We'll be driven by science and we'll be driven by the rule of law.

BOOKER:

And then finally, one of the proudest members--this is my last moment on this committee, and I want to tell just what it honor it has been to serve on it. And one of the proudest things I got a

chance to do is to work on the TSCA effort here. It was a bipartisan bill, and we advanced an issue around making sure that we were reducing animal testing with a--with a--with a great goal. Will you just please commit that you will remain strongly committed to the work we did together in TSCA and the reduction of animal testing or--or to the greatest extent, the elimination of it?

REGAN:

You have my confirmation on that as well.

BOOKER:

Thank you very much for your indulgence.

CAPITO:

Thank you. Thank you for your service on the committee. We'll miss you.

BOOKER:

Thank you.

CAPITO:

Senator Boozman?

BOOZMAN:

Thank you very much, and thank you for being here. I've--I've heard from a lot of friends of yours, and you have an excellent reputation.

One of--one of the honors that I have is being the ranking member of the Agriculture Committee representing our farm community. And certainly, I know this has come up a bunch today, but the Waters of the U.S. is really--was really a--a real burden. As secretary of North Carolina Department of Environmental Quality, you signed a letter regarding EPA's 2019 rule repealing the 2015 Waters of the U.S. rule.

In this letter, you stated that the EPA should, and I quote, "Strive to promulgate a--a definition--a clear definition of WOTUS, and should allow states the flexibility to regulate waters necessary to achieve the goals of the Clean Water Act, and in a manner that ensures the health, safety, and economic prosperity of their citizens." But you ultimately opposed to EPA's final navigable waters protection rule. Do you support a role such as the 2015 role, which roughly--had roughly one half of the country operating on one regulatory construct and the other half of the country operating on another?

REGAN:

Thank you for that question, Senator. And, you know, as the secretary of the EQ having to respond to both rules, there a lot of lessons learned, pragmatic experiences--or pragmatic solutions that we've learned from experiences. I've spent a lot of time with a lot of small farmers. I've spent a lot of time with a lot of environmental groups. And what I would say is I am looking forward to convening multiple stakeholder groups on how we chart a path forward.

I don't believe that we have to sacrifice water quality at the expense of making sure that farmers, especially small farmers, have a fighting chance in this economy. I believe that you can do both. And what I saw with the 2019 rule was a rollback that went even further back than presidents of both of our parties. And so, what I'm hopeful for is that we don't have to go with a slingshot approach, that we can look for a common ground where we give the farming community and the environmental community some certainty that, as we move forward, we're going to follow the science, follow the law, look at a pragmatic approach that doesn't overburden the farmer, but we don't have to sacrifice precious wetlands in North Carolina like our Carolina bays and the others.

And the last thing I'll say is it's very difficult for any kind of federal regulation to truly address the unique agricultural needs of different regions. The agricultural needs are different in all of our regions. And the water make up in Nevada surely doesn't look like the water make up in North Carolina. So, I want a rule that moves forward that's not overly burdensome but gives the states the flexibility to protect water quality and protect the local agricultural economy.

BOOZMAN:

No, I--and I would agree with that. The problem is that generally with EPA, and you've experienced this in North Carolina, they agree with you unless the state disagrees. That becomes a problem.

For our small farmers, and--and I agree with everything you said, you know, regarding the--the burden on particularly our small farmers. As EPA director, what is the significant nexus test?

REGAN:

I'm sorry?

BOOZMAN:

The significant nexus test, you know, regarding the waters of the--you know, of the--Waters of the U.S. What is the--what is the nexus test? What would you tell our farmers?

REGAN:

What I think I'd tell our farmers is--is with this administrator, we're going to have an open door policy. And I want to hear from our farming community. I want to hear about the administrative burdens that they felt they suffered as a result of some of what they call definitions that they did not understand.

But I also want to--to make it a point that in North Carolina one of the biggest problems we saw was a lack of resources in my department to provide technical assistance to these farmers. I don't believe that small farmers are looking for a shortcut, and I don't believe that small farmers do not not want to protect our wetlands and our water quality. We've got to work together to make sure that we have a rule that's understandable but protective of, again, our water quality as well as not overburden our small farmers. I believe that we can do that if we have more conversations.

BOOZMAN:

Good. Well, we look forward to working with you on that. And--and it really is important. And I--and in listening to you, you understand the importance and I appreciate that.

Also, I agree with the statement about the fact that I know that in North Carolina, Arkansas, almost all of our states, the resources to actually educate farmers and lots of different things is lacking. So, hopefully we can help you with that also.

REGAN:

Absolutely.

BOOZMAN:

Thank you very much. Thank you.

CAPITO:

Thank you. Senator Markey?

MARKEY:

Madam--Madam Chair, can you hear me and see me?

CAPITO:

I can hear you but I can't see you, but I bet I will in a few minutes.

MARKEY:

Okay.

CAPITO:

I can hear you, though, very well.

MARKEY:

Beautiful.

CAPITO:

I might have--oh, there you are.

MARKEY:

Okay, beautiful. Thank you, Madam Chair. And welcome, Mr. Secretary. I've looked at your outstanding record. I know that you are going to do an outstanding job at the EPA. What I'd like to do is to begin talking about clean car standards and our ability to lift the overall energy efficiency of the vehicles which we drive in the United States of America.

We've had a rollback over the last four years, but we've had big developments very recently where General Motors has now announced that they are going to end their production of the internal combustion engine vehicles by the year 2035. China's on a similar course. Europe is moving very aggressively.

Are you committed to using the authorities that the EPA in order to increase those fuel economy standards? And do you believe ultimately that there are consumer benefits to having these much more efficient vehicles be put on the roads and give it as an option for consumers to purchase?

REGAN:

Thank you for the question, Senator. I--I do anticipate using our statutory authority to set the rules for the road. And I believe that we're going to do it in a way that it complements the aggressive goals set by an established by the private sector, the automobile industries. We believe that the market is trending in a specific direction, and we believe that we need the right policies and the right regulations to be sure that all of the players understand there's a level playing field and understand the rules of engagement.

There are tremendous benefits to moving this direction. There are tremendous benefits to the economy. There are tremendous benefits to our automobile manufacturing sector in terms of production. There are tremendous benefits from a health and climate standpoint. We have got to do a good job of having robust conversations with all of the stakeholders so that we can really, really take advantage of the win, win, win and that our strong labor force can see themselves in this vision for the future.

MARKEY:

So I agree with you it is good for the climate, environment; it is a job-creation engine, and it actually ultimately helps consumers with lower prices in the long run. So I agree with you 100 percent. Will you work to ensure that states like California and Massachusetts can work towards the creation of their own standards to make sure that vehicles in those states meet the highest standards?

REGAN:

Absolutely. I believe in following the law and following established--established precedents and I think that the California waiver exist for a reason. I think there is a process that we should follow, and if those states follow those processes and want to be champions in this arena then they can go forth and conquer and the rest of the country can learn from these first-mover opportunities that they are taking advantage of.

MARKEY:

No, I agree with you. The states can move, you can move and we are so glad to have you there and we can turn EPA into economy protection agency, we can turn the EPA into a emissions prevention agency and I just think we are on the cusp of a great new era.

I would love to turn now to a conversation about environmental justice. You just had a great conversation with Senator Booker. I have introduced legislation, the environmental justice mapping and data collection act and the reason I have done that with Congresswoman Cori Bush is to make sure that we actually measure the pollution, measure the environmental family because if you can't measure something you can't plan to deal with it. So what do you think about that kind of legislation and those kind of tools being given to you so that that kind of mapping can be done all across the country and as a result remedial actions can be taken in a much more wise and targeted way but also knowing that it is disproportionately in black and brown communities all across the country?

REGAN:

Thank you for that and thank you for your leadership on that. I--I believe that the more data that we have the more modeling that we have, the more tools that we have that paint these pictures the easier it is for us to make the case. We know that there are disproportionate impacts to many of our communities and so the more data we have the greater ability we have to rectify those problems.

I also believe that tools like that and we have seen this in North Carolina when you put tools like this in the hands of our economic developers and our locally elected officials number; one, they will take action or help support state agencies take action, but number two, as they do their long-term planning to recruit new industries they have a better sense of what the cumulative impact could be to these communities based on the decisions that they are making. And so I believe it

gives business also a clearer understanding of how to plan for economic development projects as well.

MARKEY:

So President Biden has committed to--

CAPITO:

Senator Markey, your time--your time. Sorry.

MARKEY:

Thank you, Madam Chairman and looking forward to working with you Mr. Secretary.

REGAN:

Thank you, Senator.

CAPITO:

Thank you. Senator Wicker?

WICKER:

Hello. Mr. Regan, glad to get a chance to see you in person and thank you for taking the time to talk to me a couple of times on the phone. When we visited I mentioned that I was stationed in your hometown of Goldsboro, North Carolina for some four years. We lived on Elm Street and it turns out we were practically neighbors--

REGAN:

That is right.

WICKER:

--when we--when we were there for the four years. North Carolina has become a lot more urban since I moved away in 1980 but still a lot of rural small towns, rural communities and I would imagine a lot of rural water associations is that correct?

REGAN:

That is correct.

WICKER:

And you had a chance to work with them as Secretary--DEQ Secretary in North Carolina?

REGAN:

Yes.

WICKER:

You know let me ask you if you agree with this there's not a single water association board or board member that doesn't want to comply with the Clean Water Act or
the safe drinking water act it is just a matter of having the expertise and the resources to do so. Am I generally correct there?

REGAN:

That is correct.

WICKER:

And so in working with these volunteer association boards to comply with the new requirements there is sort of two ways to approach this, one would be to impose penalties on them for not getting to where they need to be and the other would be technical assistance, financial assistance, and resources to help to get to where you want them to go and where they want to get to. I like

the second approach. What do you say about that and what has been your experience as DEQ Secretary?

REGAN:

My experience as DEQ Secretary is that number one, people don't like surprises, they like to understand the rules of the road and they like certainty and where we have been most successful is the ability to provide technical assistance so that speaks folks do not run afoul.

WICKER:

Okay, well, but--but also a lot of times when they are running afoul as you say it is something that they didn't bring upon themselves, it is just their inability to afford the new equipment or the new hardware that it takes to get where they want to go and that is where the assistance and the technical assistance comes in.

I think you and I are on the same page there but I want to--I--I hope you can assure me that you are going to work in a collaborative way with these associations who absolutely want the best water and the cleanest water for the members of their association and their neighborhoods.

REGAN:

I will and this is where the president's plan looking at the number of investments that we need in our water infrastructure is so critical. In North Carolina, we have somewhere between $17 billion and $21 billion worth of water infrastructure needs. We have got advanced technology that can detect what chemicals and pollutants that no one ever dreamed of. We have got to find a way to part with the water associations, invest in this infrastructure so that we can do a couple of things. The first is that we can protect water quality. But number two, without this infrastructure these rural towns and cities are lagging behind in the ability to develop economically and attract businesses.

WICKER:

I think I--I am understanding from your answer that North Carolina rural water associations are not quite there yet either and it is going to take some federal assistance.

REGAN:

I think every state is struggling across the country, sir.

WICKER:

Well, let me mention one other thing. Senator Cardin went on about Chesapeake Bay, Senator Whitehouse could hardly wait until he got to the microphone to mention Narragansett Bay; I am sure they are mighty fine. There is also the Mexico and I certainly hope you will be down to see you soon in the Gulf of Mexico.

You should know if you don't already that after the Deepwater Horizon spill in 2010, the largest oil spill in the history of the country Congress passed the RESTORE Act and there is Restore Council and are you aware that they unanimously voted, the council unanimously voted that the EPA administrator will serve as Chair of that council? Are you ready for that?

REGAN:

I was not aware of that.

WICKER:

Okay. Well, I am telling you for the first time that you are and under the previous administration, the Chair worked collaboratively with the five states on the Restore Council. So if confirmed you are going to need to get back to us and tell us how you would work and view your role as Chair of the Restore Council which is responsible for deciding how the support for the impacted areas will--will be handled.

REGAN:

Well, thank you for that and I can tell you just based on my experience the way I would manage that body is number one, ensuring that all of the stakeholders have a voice; number two, that we understand what the clear rules of engagement are and number three that we will follow the science and the intent, the original intent of this Restore Council. I believe firmly that rules are set for a reason, that science and data can inform us and that all people sitting at the table should have an equal voice in terms of how we move forward to find solutions.

WICKER:

Can't wait to see you down there and Madam Chair. I just might observe that as other members have found, you have sped that clock up this afternoon somehow and--

CAPITO:

And your time is over.

WICKER:

--hardly any of us have been able to comply with the five minutes.

WICKER:

Thank you, ma'am.

CAPITO:

Senator Duckworth.

DUCKWORTH:

Thank you, Madam Chair. I'm trying to start my video, but it does not seem to be working, so hopefully you can--

CAPITO:

--We can hear you for sure.

DUCKWORTH:

Okay, great. Then I'm going to go ahead and start with my questions. Thank you so much for--Mr. Regan, for, as we discussed, for you being here. And as we discussed during our courtesy meeting, solving the climate crisis must be a top national priority. Any critical pillar of this effort should be the American biofuel industry. In particular, farmers and lenders in Illinois and

throughout the heartland are ready to do their part to help lower carbon emissions in the transportation sector and reduce dependence on foreign oil, all while creating or supporting quality jobs right here at home.

It's hard to think of a better way to put American interests first then supporting the U.S. biofuel industry, and that is why one of the most surprising actions of the Trump administration may have been its cynical betrayal of the Midwest. While the former president campaigned on grand claims of being a champion of the renewable fuel standard, upon entering office, however, at the Trump transition immediately empowered a billionaire in the oil refinery business to begin secret plotting to dismantle the RFS.

My constituents of Illinois were betrayed but remain optimistic that the Biden administration will be a staunch champion of our farmers and of American biofuels. Mr. Regan, if confirmed to be EPA--to lead EPA, will you prioritize the faithful execution of the bipartisan Argus program just as Congress intended?

REGAN:

Thank you for that question, Senator Duckworth. And you have my commitment that we will take a look at the RFS program and we will introduce some transparency into that program. We will let science lead us and we will follow the letter of the law as it was intended for that program.

President Biden has not been shy that agriculture will have a seat at the table as we tackle climate and he's been specifically focused on biofuels and advanced biofuels. One of the first conversations I had upon nomination was reaching out to now Secretary Tom Vilsack to talk about how we can partner together to pursue these efforts. So you have my commitment in this area.

DUCKWORTH:

Thank you. We also need to look backwards a little bit in terms of the backlog. Much attention was given to the prior administrations unlawful abuse of exemptions for oil refineries. However, the Trump administration's sabotage of the RFS program was not limited to doing the bidding of big oil. In fact, EPA was also slow to act or refused to act in certain cases on applications from innovate American-- innovative American companies developing new advanced biofuels that are ready to qualify for the RFS. EPA now faces at huge backlog of applications, some of which have been sitting for over four years. If confirmed, will you commit to prioritizing clearing this backlog so that new climate friendly biofuels can enter into the market as soon as possible?

REGAN:

Well thank you for that question, Senator. And I will spend some time with our staff taking a look at this backlog and working on processes of efficiency so that we can make up for lost time.

DUCKWORTH:

Thank you. I--I also want to talk to you a little bit about environmental justice. My--my partner in this, Senator Booker initiated the conversation and we've talked about this at length on both sides of the aisle. I'm so happy to see there that there's bipartisan support for fixing environmental injustice. You know, if confirmed, what actions would you take to institutionalize a focus on environmental justice in every--in every region of the EPA?

For example, some of the--some of the injustice happens because of structural injustice. You just don't have enough staff members that can do the monitoring that can actually go out there in some of these regions whether it's this outside of Chicago or a rural community like Sauget, Illinois in far southern Illinois where there's just not enough people to go out there and actually maintain the ambient air monitoring of chemical emissions. What would you do to fix, you know, to actually fix the inequities within the institutional structure of EPA so that we have a focus on environmental justice in every region where EPA is?

REGAN:

Well, thank you for that question. And I'm proud to say that President Biden has made environmental justice a centerpiece of this administration. So we're going to have some help in terms of looking at CEQ into their agencies as well. But as it relates to EPA, it's my intent to have an environmental justice and equity adviser to the administrator, if I'm lucky enough to be confirmed.

We also are looking at how we need to organize EPA to be ensure that environmental justice and equity is our top priority. We know that in looking at the preliminary hiring of a lot of officials at EPA, we will have environmental justice and equity experts, people who have on the ground experience and expertise placed in all of our media offices so that that lens is applied at every level of our decision-making. We have a lot of work to do, we have a lot of ground to make up, and I'm sure that I will be back before this committee asking for additional resources in this area to be sure that all Americans have access to clean air and clean water.

DUCKWORTH:

Thank you. In the coming weeks, I will be introducing the comprehensive Environmental Justice for All Act in coordination with leaders of the House EJ Caucus who will also introduce the House companion bill. If confirmed, will you commit to directing EPA to provide technical assistance to support my office and this committee so that we may strengthen in advance this important legislative proposal?

REGAN:

Thank you for that question and you have my commitment that the staff and myself at EPA will be a partner in any legislation that advances this topic and helps us do a better job of protecting each and every American in this country.

CAPITO:

Thank you, Senator Duckworth. I think your time's up.

DUCKWORTH:

Thank you.

CAPITO:

Thank you.

DUCKWORTH:

Thank you, Madam Chair.

CAPITO:

Senator Ernst, I believe wants to question, but in person. She's not here, so we'll go to Senator van Hollen. Oh, excuse me.

CARPER:

Before we do that, could I ask unanimous consent to place in the record a statement from, gosh, over 20 agricultural organizations in support of the nomination of Secretary Michael Regan?

CAPITO:

Without objection. Senator Van Hollen.

VAN HOLLEN:

Thank you, Madam Chair, and thank--thank you and Senator Carper and the others. And Mr. Regan, congratulations on the nomination. Thank you for your service in North Carolina and just as the top of my question and comments here, I do want to associate myself with the remarks of Senator Duckworth and appreciate the focus on the environmental justice.

And also with respect to Senator Merkley and other comments about the president's climate change agenda and how that is so important for American jobs. We don't want to leave any community behind, as you say, but by not engaging, by leaving the Paris accords, by ceding leadership to China and others, we actually fell behind in an area that is essential to American jobs and good paying, homegrown jobs.

And the costs of doing nothing not only come in the form of more severe weather events and another costs to all of our communities, but also in lost job opportunities in the clean energy sector. So I appreciate this administration's focus in that area. I wanted to follow up on some of the comments of my colleague from the Maryland, Senator Cardin, and on this committee, you have a number of senators very engaged in Chesapeake Bay protection, including Chair Capito and Chairman Carper, Senator Cardin and myself and it's because it's a multi-state responsibility.

And because it's a multi-jurisdictional responsibility, EPA is right at the center. It's part of the glue that helped helps all of us row in the same direction, at least that's what we're supposed to be doing. And so over the last many years, we succeeded on a bipartisan basis in preventing, you know, deep cuts proposed to the previous administration to the EPA program. I want to thank my colleagues on both sides of the aisle for--for that effort. We are going to need you front and center here now to make sure that we hit our goals under the Chesapeake Bay agreement for 2025.

Some states--all states can do better, but some states are really lagging behind, including the state of Pennsylvania. So I just need your commitment that you will work with us across the state lines

to make sure that we get our hit our targets in pollution reduction in accordance with the 2025 goal.

REGAN:

thank you for that, Senator Holland--van Hollen. And yes, absolutely, it is my goal and desire to mobilize all of the resources that we need at EPA to be a partner to the state so that we meet that 2025 goal.

VAN HOLLEN:

All right, because we're already behind and, in the case of Pennsylvania, significantly behind. We'd hoped to work with the previous administration to close that gap and of course with the state of Pennsylvania. Lawsuits have been filed both by the state of Maryland but also other organizations, and we'd--we'd like to resolve these issues as soon as possible.

Let me ask you about the good neighbor air transport issue. Maryland has worked over the decades to address the issue of air pollution originating in other states, but--you know, falling in Maryland and into the Chesapeake Bay. In 2018, the Trump administration's EPA denied Maryland's good neighbor petition under section 126(b) of the Clean Air Act regarding 36 upwind electric generating units--units in five other states.

On May 9th of last year, the D.C. Circuit Court of Appeals granted Maryland's good neighbor petition for review in part, and remanded the issue to EPA. I'd like to get your commitment here today to work with us to address this downwind air pollution issue and a new review of Maryland's good neighbor petition under the Clean Air Act.

REGAN:

Thank you for that question. And you do have my commitment that this agency would review that petition. North Carolina is one of the states that has to exit--has--has had to exercise that good neighbor petition, and we were granted the petition. We ended up in court and we won under the leadership of now Governor Cooper. And so, we understand the--the impact of transport and the implications that that might have on a state's economy, and so you have my commitment that we will review that.

VAN HOLLEN:

I appreciate that.

CAPITO:

Thank you.

VAN HOLLEN:

And--and finally, just--as you probably know, thousands actually, over 1,000 really dedicated EPA employees have left the agency over the last four years, including a lot of people with very special expertise. So, I hope you'll work with our entire committee as you seek to rebuild morale at the VA. I thank you. Thank you, Madam Chair.

REGAN:

Thank you.

CAPITO:

Thank you. Thank you. Senator Carper?

CARPER:

Yeah. Madam Chair, let me just say to Senator Van Hollen, who's leaving our committee, is going to join the Foreign Relations Committee, it's I think something he's wanted to do for a long time, just to say how much we value, how much I value is work with us and the spirit that he brings to these--these--these issues.

I want to draft on him for a minute just--Mr. Reagan, I just want to draft for a minute. That's what we say in NASCAR. And I want to draft on Senator Van Hollen for just a minute on the--the air transport issue. We--similar situation when I was governor of Delaware. Let me just say roughly 80 percent, 90 percent of the harmful emissions that come into our state--air emissions come not from generated within. They come from without and they're blown into our state, you know, in from the north, from the--the west. And I used to say could shut down--literally shut down the economy of the state of Delaware, shut it down, and we would still be out of compliance.

And the--we--we basically got the--no help from the last administration. I'm encouraged to hear that this is something you're knowledgeable about and have worked on before. And we look forward to getting--making--just making sure that we treat other people the way we're--we would want to be treated. It's the golden rule. It's the golden rule all over and I think a way that everybody can understand.

I--I--I want to just mention something similar to what we're experiencing. Delaware of the lowest-lying state in America. The seas around us are--our--our state is sinking. The seas around us are--are rising. And we've--that's--that something that we're witnessing. We've also witnessed in this--in this country of--I think nine of the last 10 years the hottest on record; hottest on record. In high--in Iowa about a year ago, they had hurricane force winds--hurricane force winds in Iowa in the middle of the year and wiped out about a third of their--their crops.

Firestorms in California last year, Oregon, Washington last year the size of my state; the size of my state; sea level rise in Louisiana. We're reminded by our colleagues John Neely Kennedy, Bill Cassidy, and Louisiana they lose--listen to this. They lose--a football sized area of wetlands lost every year to the ocean, to the sea every 30 minutes; every 30 minutes. I remember being done in that state was Senator Landrieu maybe 10, 15 years ago, and she said they would lose maybe one or two, you know, football fields of land. Now it's like one every 30 minutes, sea level rise in Louisiana.

Arctic Circle. My wife was down in the Arctic--and Arctic a year ago. They broke--temperatures down there broke records, all-time records. And we learned earlier last year that up in the Arctic Circle the temperature there reached 100-degrees Fahrenheit; in the Arctic Circle 100-degrees Fahrenheit. We had more named hurricanes last year that any year before we ran a names. We had to go--start with a new alphabet or something as I recall. And I understand Hurricane Laura damaged last year through property damage, casually damage to $19 billion.

Last year, we had 22 $1 billion disasters that flow from hurricanes and storms like--like--22 in excess of $1 billion. Hurricane Florence was I think--just in North Carolina alone, I'm told, $24 billion; $24 billion. And the science is in. The--the reason why all--all this calamity and extreme weather is going on an enormous loss of life and endangering property and economic value is because we have too much carbon in the air. We have too much carbon in the air and too much methane in the air. We have too much HFCs, hydrofluorocarbons in--in the air, and we've got to do something about it. And if we don't, it's just going to get worse.

In fact, it's been getting worse. The question is can we do something about it, whether that's reducing HFCs, whether that's reducing carbon dioxide, black carbon. Can we do those things and create economic opportunity and jobs, the kind of stuff that Senator Sullivan is talking about?

Every fiber of my being says we can do both. I think we've got to. We've got to do both. Would you just comment on that again? I know you've talked about it. Just come back to it again.

REGAN:

Well, thank you for that. And I--I absolutely agree that we have to do something about it. In North Carolina alone in the last 5 to 7 years, we've seen three or four so-called 500-year, 1,000-year floods. The storms are very intense.

We know that human activity is contributing to the intensity of the storms. So, not only do we have to focus on solutions to mitigate climate change, which President Biden's aggressive agenda demonstrates that we can create good jobs on the mitigation side, we've also got to design resiliency and infrastructure plans so that we can adjust to this new norm. We've got to adjust to the new storm intensity, the new flooding.

We cannot build the same way we've always been. We can't put Humpty Dumpty back together the same way every time. So, they answer to your question is, yes, we believe that human activity is intensifying the situation we find ourselves in. Yes, we believe that there are solutions to mitigate climate change. Yes, we believe that we can create jobs and safety while becoming more resilient. And yes, we believe that we can create jobs on the mitigation side as well.

We believe that there is safety, that there is health outcomes, and there's job creation in all of these various scenarios. We just have to have a plan. We all have to be rowing in the same direction. And we've got to come together, and everyone has to see themselves in this vision that we're painting.

CARPER:

Yeah. Senator Coons and I have the opportunity to have a--a conversation today with our new president, and we talked about what do we do to help people, the kind of people that Senator Sullivan was just talking about, people whose jobs and job skills maybe are not relevant. Maybe they just--we have a lot of people. Maybe that's the wrong way to say, they're not relevant, but there's just not the demand for those skills that there might have one--once been. Is there something that we can do to help them?

And one of the things that we were experimenting with in--in Delaware, and we might want to consider this in other places, is how do--how--some--how we help folks to maybe retrain, retool to--to fill the jobs that are--that are--that are out there? Like, I--I grew up in West Virginia, born in West Virginia. A lot of my neighbors are coal miners. We got--we used to have like hundreds

of thousands of jobs in coal mining, including a bunch from West Virginia. I think in the country now we might have 50,000 jobs.

And we can't just forget those people. We've got to find something to help them to do and to find new skills. How--just give us some examples of how we might do that.

REGAN:

Well, one example is looking at President Biden's executive order solely focused on this question, looking at how do we help states that are heavily dependent on coaling--coal and mining. The reality is that as we think about EPA sort of setting the rules of engagement for the level of emissions that we need to reduce in order to save the planet the reality is that there are other agencies that are also major players in this that have resources to invest in research and development. We can really think about some new advantages in supply chain that coal actually offers. We can really think about when we retool these communities, really understanding what the skills are. Most of the skills are transferable to needs that we have right now in terms of infrastructure, filling the gap for some of the research and development that is going into new science technology, and the like.

So my--my point is that I don't believe there is a silver bullet. I believe that it requires a robust conversation. I believe the market is trending in this direction. I believe technology is trending in this direction, and I believe that American ingenuity, if we can all come together, can solve these problems, and we can lead the world.

CARPER:

I--I think we have a second round. I appreciate the time. Thank you, Madam.

CAPITO:

Thank you. Senator Ernst?

ERNST:

Thank you, Madam Chair, and thank you, Mr. Regan, for appearing in front of our committee today. I've got a couple of really important issues that I want to visit with you about, very important to our Iowa farmers and our producers, and so thankful to have had the conversation we did the other week, so thank you very much.

One of the most important issues that the EPO--EPA will consider for my state is how to handle the renewable fuel standard, and we all have very differing opinions maybe on this committee, but it is very important to Iowans, and should you be confirmed for this position waiting on your desk with anticipation when you get through the door will be a number of pending items related to the RFS.

There will be some decisions on small refinery exemptions; you will have an RVO for 2021, there is pending cellulosic biofuel petitions and a request by governors to waive the RFS program because of COVID-19, and then a few months later, EPA will begin figuring out the 2022 RVO and how to handle volumes in 2023 and beyond as well as determining how to handle some regulatory hurdles facing feels like E15. There's a lot going on in this space, so in short, because there is a lot, happening EPA really does need to step in and provide guidance.

So how will you ensure that these important matters, which really do have an outsized impact on many states like Iowa and for a number of these states in the middle of the country, how will you look at this and make sure that they get handled in a way that provides further economic opportunity?

REGAN:

Well, thank you, senator, for that question, and I, too, have enjoyed the conversations we have had on this topic. RFS is definitely a priority for this administration. I recognize that there will be a number of things sitting on the desk if I am fortunate enough to be confirmed.

The reality is that I want to sit down with my staff, sit down with legal counsel. There are a number of things that are caught up in litigation, there are a number of things that we need more transparency around how we arrived to those decisions, and we need to be sure that the agency actually applied the latest data, the latest science and followed the letter of the law in some of the decisions that have been made.

So we plan to do a thorough review of all of the decisions that fit under the umbrella of the RFS, but we don't plan to do that without consultation with you and with other stakeholders that will be impacted by these decisions. What I can promise you is we will take a no-surprises approach. We will be extremely transparent; we will be forthcoming with the science and the data and the legal determinations that we come to you in order to make those decisions, and we will share those decisions with you.

ERNST:

And I think that is an import--a very important first step and--and hopefully, we continue to work beyond that. Transparency is something that we have felt has been lacking, and we fully expect that to have integrity in any sort of program, we need that from the EPA; we need to understand how those decisions are being made. So if--if confirmed staying on the topic of the RFS, can you commit to a strong and growing role for corn ethanol in the RFS, including for 2023 and beyond when these statutory tables have expired?

Again we have some hurdles coming up after 2022. EPA will be heavily, heavily involved in this. We do want to see the continuation of our renewables. Is that something you can commit to?

REGAN:

Yes, I can commit to the fact that the President has indicated that agriculture will have a seat at the table in this administration, especially as it relates to climate change. We are going to take a look at all of the latest science and be sure that we are communicating that with you all, and there is a commitment that again following the science and following the letter of the law, the intentions of the RFS will be a top priority for us.

ERNST:

Wonderful, and my time is running short, so I am going to jump ahead to WOTUS and on the first day in office, President Biden gave clear direction to EPA to review and rescind a number of the Trump EPA major role makings including the navigable waters protection rule and as you know this rule replace the Obama administration's 2015 WOTUS role and it--the navigable waters rule does enjoy widespread support from our farmers and ranchers. If confirmed, do you intend to rescind the navigable waters protection rule?

REGAN:

Thank you for that question, and if I am confirmed, I plan to take a look at what our options are to address any kind of lingering concerns, whether that be litigious or concerns with the community, bring our stakeholders together as I have done in North Carolina and take a look at what do we need to do to move forward to provide some certainty to our farming communities especially our small farmers so that decisions can be made and investments are not stranded on the sidelines, but I also want to be sure that we do that in a way where we are protecting our water quality, our wetlands and our bays.

ERNST:

And I always believe, and maybe you do as well, but our farmers are the first conservationists and do a very good job through education and other means putting those things into practice, so I appreciate that. What we don't want to do--

CAPITO:

Senator Ernst, your time is expiring.

ERNST:

What we don't want to do is exacerbate the problem further, and thank you very much for your indulgence Madam Chair.

CAPITO:

Thank you.

ERNST:

Thank you.

CAPITO:

Thank you. So I believe all of our members have wishing to ask a first round of question had the opportunity to do so. I'm going to ask if you are okay if we go to a second round. It won't be a very long, I don't believe. Do you need a little bit of a break, or are you okay?

REGAN:

I'm fine. Thank you.

CAPITO:

And your son is amazing.

CARPER:

How is Matthew holding up?

CAPITO:

He's just--he's great. I have been watching him on like I have seven grandchildren, not sure that would happen at our house.

CARPER:

I--I can share. When our boys were that age, what is he about eight or nine?

REGAN:

He's 7.

CARPER:

When are boys were that age there's no way in the world--

CAPITO:

He's seven.

CARPER:

Seven, no way in the world I would have brought them to a hearing like this. I don't know if you have him sedated or what, but he's a trooper.

CAPITO:

So--

REGAN:

There's a toy in the deal, Senator.

CAPITO:

Okay, okay.

CARPER:

I hope it's a big one.

CAPITO:

I hope it's a good one. So I am going to yield my first questioning time to Senator Sullivan, and then we will go to Senator Carper.

SULLIVAN:

Thank you, Madam Chair and Mr. Regan. Thanks again, and I do want to, of course, get your commitment if confirmed to get up to Alaska.

REGAN:

Yes, you have my commitment.

SULLIVAN:

Absolutely, great. Listen, and to my friend Senator Carper who is a good friend of mine, I think I just want to caution everybody on these discussions the discussion of like what is a relevant job and what isn't my--all of my constituents have relevant jobs. Right now, let me give you one example.

We can grow the economy, create millions of jobs, and reduce greenhouse gas emissions. How do I know? Because we have already done that; from 2005 to 2017, the United States reduced greenhouse gas emissions by almost 15 percent. That's more than any other major economy in the world by far. How did that happen? It wasn't EPA regulations, no offense to the EPA, Obama, Trump, now Biden.

It was the revolution in natural gas. Everybody knows that. President Biden used to brag about it last year on how important it is. That is oil and gas workers, so they are incredibly relevant, so I want to--we need to be cautious. Every job is relevant. My constituents have very relevant jobs. The last thing we want is to have senior administration officials John Kerry, Gina McCarthy, others telling Americans what is relevant and not. That is not the way to bring people together about let me--I want to

SULLIVAN:

talk a little bit about Alaska. We're the classic place where one size does not fit all. We are very big. My Texas colleagues get sick of it when I talk about we're two and a half times the size of Texas. If you split Alaska in half, Texas would be the third-largest state in the country.

But I've mention that because so many things the EPA does have an enormous impact on my state. Let me just give you a couple of stats. Alaska is home to 63 percent of the nation's jurisdictional waters under the Clean Water Act. We are home to 65 percent of the nation's wetlands. 65 percent of America's wetlands reside in my state.

So that is why issues like the Waters of the U.S. are really, really important to my constituents. We have more coastline than the rest of the lower 48 states combined. We do. Just in my state. So these issues are huge in Alaska, which is why I look forward to getting you up there, if confirmed.

Now, I want to turn to this really important issue, and I'm glad you're raising it. Equity in environmental justice. That one group that I want to talk about in particular are the large minority group in my state, which are an Alaska natives. That population includes my wife, my daughters, almost 20 percent of the population.

We have over 30 communities in Alaska, mostly Alaska native that have no running water. No flush toilets. Nothing. So one of my first pieces of legislation that I passed in this committee with Senator Boxer was for communities that are disadvantaged like that. So can I get your commitment, if confirmed, to work with me on this issue, which just shouldn't happen? There

shouldn't be a communities in America they don't have running water and flush toilets. Can I get your commitment on that?

REGAN:

Senator, absolutely. Absolutely.

SULLIVAN:

That's a equity and environmental justice issue, if there ever was one. Let me turn to a big map that I--I trod out a lot. This is from the American Medical Association. We're talking about jobs, why these policies are important for jobs. I'm going to talk about not just jobs, but for lives. The AMA did a study from 1980 to 2014 and it looked at what part of the country, what region had life expectancy increases where you see blue and purple, that's the most.

My state had the biggest life expectancy increases in the country by far. 7, 8, 9, up to 13 years. I've asked my colleagues in debates because I've trotted this out a lot, give me a policy indicator more important is are your constituents living longer? There are not many. And in my state, that's happened.

The reason it's happened is because these communities that you see in Alaska where there's been big life expectancy, A, they start from a very low level. Mostly Alaska native communities really low life expectancies. But what happened from 1980 and 2014 is resource development happened. Oil and gas happened. Mining happened.

And that's why I get so emotional about these issues. These are equity issues. These are environmental justice issues. If this administration wants to shut down these kind of economic opportunities, this impacts peoples jobs, but also how long they live. So I would like to get your commitment before any big decisions are made on undermining these kinds of industries to work with me, work with my stakeholders.

Madam Chair, I would like to just introduce a Wall Street Journal op ed from the mayor of the North Slope Borough and a Inupiat leader that was entitled "Goldman Sachs to Alaska natives, drop dead." This was all the big banks that were saying we're not going to invest up there. And what he said in his op ed was then I worry about the livelihood and life expectancy of the native people of Alaska.

So when you're talking about environmental justice, please don't forget about the native people of my state because they have benefited from oil and gas and resource development jobs in a way that most Americans can't even imagine. So can I get your commitment when you're

working these equity environmental justice issues to have my constituents front and center in your mind as well?

REGAN:

Senator, I look forward to working with you and your constituents on all of these issues. And I would really love to get the details and the data behind that life expectancy chart there. I'd love to study that, have my staff study that. In areas where states are leading, we want to learn from those states. We want to replicate those things. So I look forward to that.

SULLIVAN:

Great. Thank you very much.

CAPITO:

Thank you.

SULLIVAN:

Thank you, Madam Chair.

CAPITO:

Senator Carper, do you have a second round?

CARPER:

Thank you. The greatest source of greenhouse gas emissions in this country or mobile sources. Cars, trucks, and vans that we drive. The--we heard earlier today that the--our friends at General Motors have announced that they're going to be basically phasing out gasoline, diesel--and diesel cars, trucks, and vans by 3035.

A--a group of 5 auto companies found common cause with California and about 20--20 some other states last year to begin reducing, ratcheting down greenhouse gas emissions. I'm encouraged with the letter that's been sent by the auto industry--many of their company--

companies in the auto industry to the president, just in the past week, that there's an eagerness to build on that five state deal, rather, the five car--company deal with California and--and others.

There is a--a witness--an interest in building on that as a foundation to ramp up greenhouse gas--gas emissions so that, actually, eliminating, if you will, gasoline powered cars, trucks, and vans by 2035 is not a pipe dream. The--would you talk about that? Would you talk about the willingness of the administration to work to try to build on the--what's already happening in the--in the marketplace and to work with companies like General Motors, Toyota, and others to actually get us to where we're talking about going? Reducing emissions from the greatest source. That's our mobile sources.

REGAN:

Absolutely. Thank you for that question and those statements. And you're exactly right. I think that we were seeing that markets trend in the direction where technology is leading us. And I believe that there are lots of jobs to be had in this area. You know, under President Biden's aggressive agenda, there is a real focus on transportation.

EPA has a large role in that. I think that we have a lot of authority under the Clean Air Act using some of our mobile source rules to really structure and set the stage for how we usher in this new era that we're seeing in the private sector move towards. A couple of points that I'd like to like to make is, number one, we have the power to set these standards in a way that, again, defines the rules of engagement so all of these companies can move together In Sync but--but compete in a competitive market.

Number two, if we work very hard, we can see the benefits of good paying union jobs here in the United States helped to usher in this new era and earn a great salary at the same time. And number three, we'll see tremendous benefits not only from a climate standpoint, but we'll see tremendous benefits to air quality. And as--as we look at our roads and bridges and traffic patterns, we know that many of these roads go through communities that are disproportionately impacted by air pollution.

And so there's just so much to be gained here. EPA can play a leading role using the Clean Air Act and our mobile source rulemaking. We can partner well with an automobile industry that is seizing this momentum. And we'll get climate benefits, we'll get jobs, and we'll get better air quality for those who have been disproportionately impacted for too long.

CARPER:

Thank you. The--had a conversation with Mary Barra last year, the CEO of General Motors. And--about the future of the auto industry. And the propulsion in the auto industry. And interestingly enough, she said--I was trying to get her--to convince her for GM to join these other five auto companies in the--in an agreement with California and a bunch of States and she said I'm only on electric. That's the future. I know that's where we're going.

She said I need three things. We need--in the industry, three things in order to be able to--to be successful in this regard with respect to electric vehicles and hydrogen powered vehicles. One, she said we need easy access to charging stations and fueling stations for hydrogen. We--we need technology that--technology that--where you have the batteries you can recharge in minutes, not in hours. And she said we need the--the ability to get range release of at least 300 miles on a--on a--for a vehicle on a full charge of the battery.

So those are the three things we need. One of those is something this committee can do something about and the--I'm sure my colleagues Senator--Senator Capito remembers this. When we passed the five year reauthorization of the Service Transportation Act a year and a half ago in this committee, we included in there the support--we had a significant climate chapter. Part of that was--part of that was building a series of--of corridors across the country where we have fueling stations and charging stations and that would be part of that as an inducement and support for moving--moving the industry. It's no good for us for GM and Ford and Chrysler and others to build electric powered vehicles or hydrogen powered vehicles if nobody's going to buy them because they can't get them charged and refueled. We can--and we can do something about that.

Last thing I want to ask you about, renewable identification numbers. We have a refinery in Delaware in Delaware City. They keep getting hammered by the--the volatility of something called RINs, renewable identification numbers. Somebody else actually, I think, mentioned this in conjunction with the renewable fuel standards.

And it's become a commodity. It's traded in--in a commodity and it disadvantages refineries, especially the smaller refineries because it's like--someone's like using--making them--them out of this tool that was designed to make the renewable fuel standards work. It's making it hard to--to be successful. Any--is this something that you're familiar with and care about, know about?

REGAN:

Yes. We've had some discussions on this and understand how it fits into the full picture of the RFS, and understand that we really need to protect the integrity of these RINs, also ensuring that we are looking holistically at the original intent of the RFS and the law and applying the correct data and science to be sure that we're protecting the integrity of those RINs.

CARPER:

Good. I have one more quick question, if I could, Madam Chairman. Would that be okay, one more?

CAPITO:

Oh, sure.

CARPER:

Yeah, thanks. Mr. Regan, the AIM Act is legislation of the we've passed here. It's--the idea is to ratchet down the hydro--HFCs over a 15 year period of time. HFCs are a thousand times more dangerous in terms of greenhouse gas than carbon dioxide, as you probably know.

But would you commit that, if confirmed, you'll support the president's direction to the State Department--to the State Department to send Kigali Amendment to the Senate for ratification? And will you make implementation of the AMAC--which is legislation that does the phase down over 15 years of HFCs, to make the implementation of the--of the AMAC the top priority for EPA under your leadership?

REGAN:

Yes. First of all, thank you and the other members for your leadership on that. HF--HFCs is such an important topic. And at EPA, we look for--

CARPER:

--Is it--what is it worth in terms of climate change and temperature? Is it half a degree Celsius, just this one thing, right?

REGAN:

It's huge. It's very significant. And you guys have done the heavy lifting, and it's our job to do the execution and implementation of the law.

CARPER:

Great. Thanks so much. Madam Chair, I ask unanimous consent to add to the--the record a statement to place a tribe's support for the Biden executive order into the record. And I'd also ask unanimous consent if I could to--to place in the record all materials--this--this is a catchall statement, to place all materials into the record. This is going to be a pretty big record, but the--I'd just say I'd like to--to--a variety of materials that include news--news articles, letters from stock--stakeholders, reports, fact sheets, and other materials that relate--relate to today's nominations hearing for Secretary Regan to be administrator of the EPA.

CAPITO:

Without objection.

CARPER:

And let me just say again, thank you so much. I thought you--you've been a splendid Chairman. I don't know how long--

CAPITO:

--However brief it is.

CARPER:

Listen, there's nothing like going out on top.

CAPITO:

Right.

CARPER:

You've just knocked the ball out of the park.

CAPITO:

Thanks.

CARPER:

And it makes me even more excited about working with you and our colleagues--

CAPITO:

--Thank you--

CARPER:

--In the years to come. Mr. Regan, Michael, you did a great job here today. We're proud of you. I could barely see your wife's lips move when you spoke. And we very much welcome her and your--your son Matthew to--to our family. And hope--hopefully, we'll be able to somehow convince the committee and one of our colleagues to vote for you to get you confirmed so you can go to work. All right.

REGAN:

Thank you so much.

CARPER:

Thanks so much. God bless you.

CAPITO:

Thank you. And I have just a few wrap up questions for my second round. I--I told you in the--at the end of my first round that I wanted to go back to the--talk about your experience in North Carolina with the regulations under Section 111(d) of the Clean Air Act, including the clean air plan and the ACE rule. You talked slightly about this.

Do you believe that Section 11--111(d) of the Clean Air Act provides the EPA with authority to regulate greenhouse gases from a power plant only inside the fence line, or can EPA regulate beyond the individual plant fence line? How do you feel about that?

REGAN:

You know, I'd--I'd love to confer with my staff and with legal counsel to best determine how the courts have ruled on EPA's interpretation of that.

CAPITO:

Well, you--as you know, the courts have kind of been on both sides of that issue. And I think it makes it--it would make a determination as to whether you can force a--a power plant to force--to switch generation sources and would only require, say, a coal plant or natural gas plant to come up with best practices. So, it does have great impacts, obviously, in certain parts of the country and certainly in my state as well.

Senator Gillibrand mentioned PFAS. And you and I talked about this on the phone. I am very passionate about this issue, very concerned about the impacts of PFAS in the long-term; did press Administrator Wheeler to get to a clean drinking standard, didn't get there. I agree with her. It didn't come--you know, there is a pathway towards it, but I--I am like-minded with her in terms of the restlessness of getting there and the delay.

So, I would impress upon you how important I think that is two--to our nation and to our nation's younger--younger as they're living through the impacts of what this could have
our drinking water. So, I--I would just ask a pledge to keep working with me and us on that.

REGAN:

Absolutely. Absolutely.

CAPITO:

The last thing I would say is, and to Senator Carper, it's been--thank you for letting me have the joy of chairing my one committee hearing here. And I know we're going to be able to work well together and we are anxious to go to the transportation bill.

But when I hear Senator Carper talk about electrical--electric vehicles, I mean, I think that's very aspirational. I saw where the president said he wants all federal vehicles to be electric, and I think that's a great aim. But it--we've got to realize here we've got to power these things with electricity. And if we disenfranchise a lot of the power sources that we could make cleaner in the process, I'm talking natural gas and coal, and not--that now provides our baseline fuel still here--I mean our baseline power here in this country, we're going to stick the plug into the--and--and try to power the--the vehicle and there's not going to be enough power. If--it's going to be a power surge in this country if we get to this point of having electric vehicles.

So, at some point, we've got to really look at--and we see certain states like California that have had outages and have had to throttle different power sources because they're running low on a really hot day or maybe a really cold day or something of that nature. So, I would just say in West Virginia we say coal keeps the lights on, which it does, but it also powers a lot of vehicles and it employs a lot of people.

And so, again, when we talk about what the effects are of transitioning jobs and environmental justice and how it impacts people in all different communities, and Senator Booker is very passionate in this area, I--I think we have--I think the experience that I experienced with the 1.8 million West Virginians in the past several years during the Obama administration where now we see some of the same players--and not you.

You're a fresh face, very transparent, very ready to work, and I really welcome that because I am concerned because some of the same words in the same rhetoric was given to us. We're going to take care of you. We're going to retrain workers. They're going to learn to code. You know, they're going to move. They're going to do this. They're going to do that. And we just got dropped on our heads and it really, really hurt our--our part of the country. And I'm sure you've seen some of that in certain parts of North Carolina in different industries.

And so, I--I just am--I'm hoping and I'm hoping and I'm--and I'm an optimistic person, and so I'm maybe even hoping towards believing, but I'm hoping that it's not just another committee that's going to give me a--you know, give the state $2 million to have committee meetings so we can figure out how we're going to make things better and then nothing ever happens and no change ever occurs. So, I want to be your partner in this. I want to be able to join with you and the rest of the members really of the Senate, but particularly those hard-hit areas because it is--it has been very, very difficult to try to rebound from.

So, with that, I would say--unless you wanted to make a comment, I would say we're about to wrap up.

CARPER:

Madam Chair, before we wrap--

CAPITO:

--Yes--

CARPER:

--One--one last thing. For a long time, Delaware did not use--when I was governor, we didn't use the Economic Development Administration. We didn't use EDA. And as it turns out, we didn't have a--we hadn't produced the kind of comprehensive economic development plan that EDA was looking for in order to make us eligible to apply for grants.

One of the grants we--we obtained from EDA about a year or two ago was to enable--to take money raised by, believe it or not, auto dealers, by a poultry processor, and an EDA grant and the idea was to work with our statewide community college, Delaware Technical Community College, to create something that where we--Center for Automotive Excellence and we now have in southern Delaware in our county seat, Georgetown, a Delaware Technical Community College top of the line to attract and retain folks to work for auto dealers, vehicles of the future to do the maintenance work to work for the poultry industry, all their trucks and so forth and but we did it with the help of the EDA, and we worked with our community college and the--I think there is something there in terms of retraining and read tooling, we have jurisdiction over EDA.

CAPITO:

Right, that's the good news.

CARPER:

We have jurisdiction and(PH) the Biden proposal build back better, they asked for $3 billion, $3 billion for the EDA, we have never done more than about $300 million in a year, $3 billion it's a huge amount of money and I think there is a chance to partner in a more creative way to help meet the skill sets and the needs in the marketplace but also that a lot of folks given the opportunity to learn those skills they would do it and they are doing it. We are signed up fully at the Center for Automotive Excellence in Georgetown.

CAPITO:

Well, I look forward to the EDA discussion. I--I think that we have used the EDA actually really well in West Virginia most recently on a lot of different infrastructure development and job training and development, and so I do think it has a place because it is for underserved and unserved areas, so I look forward to working with you on that.

So I just want to really thank--you have been an excellent witness. I think that you have answered questions with a lot of honesty, and your promise to get back to people is very much appreciated. I think there are no questions, so members may submit follow-up written questions for the record, they are called QFRs here and by 4 PM on Friday, February 5. The nominee--I would ask Secretary Regan to respond to these questions by 10 AM on Monday, February 8 so there goes your weekend and I would like to thank Secretary Regan for your time and testimony and think your beautiful family for being here with us, and I wish you the best of luck.

REGAN:

Well, thank you so much.

CAPITO:

Thank you.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/25/2021 2:13:38 AM
To: Shaw, Betsy [Shaw.Betsy@epa.gov]
CC: Hyde, Courtney [Hyde.Courtney@epa.gov]; Wolfe, Michael [Wolfe.Michael@epa.gov]; Marusiak, Eleanor [Marusiak.Eleanor@epa.gov]; LaRue, Steven [LaRue.Steven@epa.gov]; Siegel, Kelly C. [Siegel.KellyC@epa.gov]
Subject: Budget Docs Coming Back
Attachments: OAR FY2022 Funding Needs Core Program 2-24-21.docx jg.docx; OAR FY2022 Funding Template Critical Infrastructure 2-24-21.docx jg.docx; FY 2022 OAR Budget Template EO Implementation 2-24-21.docx jg.docx; Cover Note for FY2022 OAR Budget Needs revised.docx jg.docx

These are excellent. I made a note in the margin of the cover note ("corporate" or "cooperative"?), as well as a few slight stylistic (not substantive) revisions (not in RLSO) in the text of two others. Sending them back as a set. Thank you.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/22/2021 7:44:04 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]

Subject: Accepted: Determinations of Attainment by the Attainment Date and Reclassifications for the 2008 and 2015 Ozone National Ambient Air Quality Standards
Location: Microsoft Teams Meeting

Start: 3/11/2021 6:00:00 PM
End: 3/11/2021 6:45:00 PM

Recurrence: (none)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 2/3/2021 1:43:28 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]
Subject: Clean Power Initiative ART.docx
Attachments: Clean Power Initiative ART.docx

As discussed last night, Kevin. Thanks.

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/4/2021 2:12:51 PM
To: Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Kim, Eun [Kim.Eun@epa.gov]
Subject: RE: List of EJ advocates for initial contact

Thanks, Ale. We should bring this up at Management Roundtable to get the scheduling ball rolling.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Nunez, Alejandra <Nunez.Alejandra@epa.gov>
Sent: Thursday, March 4, 2021 9:05 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>
Subject: RE: List of EJ advocates for initial contact

I should have mentioned – as discussed, we will seek advice from Rosemary and Matt.

From: Nunez, Alejandra
Sent: Thursday, March 4, 2021 9:02 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>
Subject: List of EJ advocates for initial contact

Good morning,

Based on our conversation on Tuesday, here's a suggested list of EJ leaders to contact:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 3/10/2021 3:30:00 PM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: FOR YOUR REVIEW: OAR Cabinet Report Input

All good! Thanks.

Joseph Goffman
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Wednesday, March 10, 2021 10:28 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FW: FOR YOUR REVIEW: OAR Cabinet Report Input

Resending.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Campbell, Ann
Sent: Tuesday, March 9, 2021 4:33 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Nunez, Alejandra <Nunez.Alejandra@epa.gov>; Kim, Eun <Kim.Eun@epa.gov>
Subject: FOR YOUR REVIEW: OAR Cabinet Report Input

Joe, please find below OAR's input for the Cabinet Report.

SIGNIFICANT EXECUTIVE ORDER (EO) & AGENCY ACTIVITY

Significant activity to raise to the attention of POTUS (0-3 bullets as needed):

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)