Appointment

From: Giles, Cynthia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=244257A09FDE4E179B447FD59D873CA9-GILES, CYNT]
Sent: 7/1/2022 8:15:17 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]

Subject: Hold for RFF on SCOTUS

Start: 7/7/2022 3:00:00 PM
End: 7/7/2022 4:00:00 PM
Show Time As: Busy

Appointment

From: Giles, Cynthia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=244257A09FDE4E179B447FD59D873CA9-GILES, CYNT]
Sent: 6/27/2022 6:16:49 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]

Subject: Hold for Georgetown panel on SCOTUS

Start: 7/6/2022 4:00:00 PM
End: 7/6/2022 5:30:00 PM
Show Time As: Busy

Message

From: Carbonell, Tomas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15EC2A6AD2934C669F6A675E7CF4961B-CARBONELL,]
Sent: 6/30/2022 4:57:11 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Alejandra Nunez (Nunez.Alejandra@epa.gov) [Nunez.Alejandra@epa.gov]
Subject: FYI

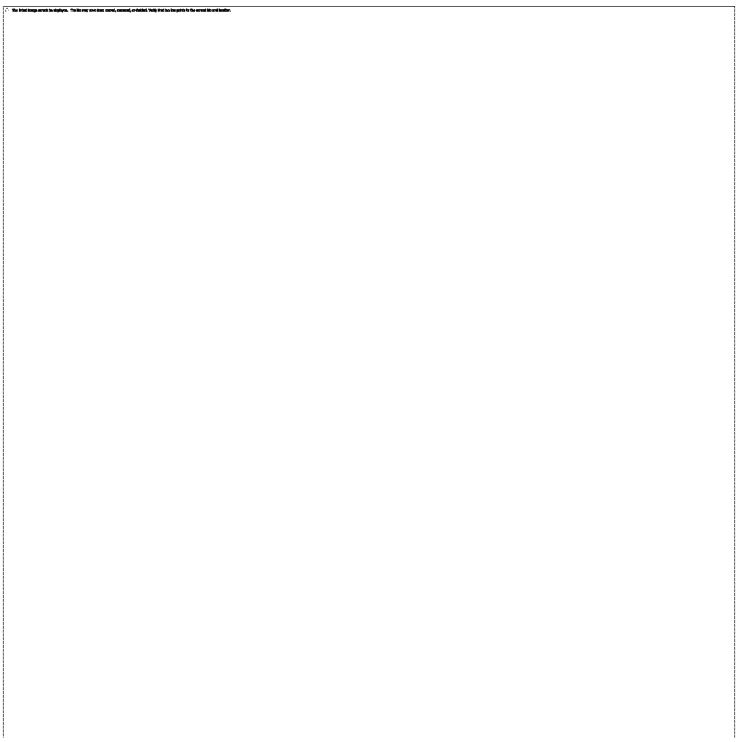
https://www.washingtonpost.com/opinions/2022/06/30/supreme-court-just-upended-environmental-law-worst-possible-moment/

Message

From: Dani Hupper [dani@evergreenaction.com]
Sent: 6/30/2022 9:48:44 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]
CC: Lena Moffitt [lena@evergreenaction.com]
Subject: Re: Join us TODAY at 3 PM EST: What SCOTUS' decision to severely limit the Clean Air Act means for climate

What a day! Hope you all are finding a moment to catch your breath. I'm passing along the recording of our Twitter Spaces conversation just now in case you didn't get a chance to tune in. Evergreen also put out a memo today on the *10 next steps Democrats can and must take in the wake of the West Virginia v. EPA ruling*.

Our statement is below. Please let us know if there's anything we can do to support you here. Thank you!



For Immediate Release: Thursday, June 30th, 2022
Press Contact: holly@evergreenaction.com

EVERGREEN: SCOTUS Ruling In WV v. EPA Undermines EPA's Ability to Fight Climate Change

In response to the decision by the Supreme Court of The United States (SCOTUS) which limits the Environmental Protection Agency's (EPA) authorities to curb greenhouse gas pollution from power plants under the Clean Air Act, **Evergreen Action Executive Director Jamal Raad** released the following statement:

"Today's ruling in West Virginia v. the Environmental Protection Agency (EPA) is yet another blow to the American people by a corrupt, illegitimate court. This ruling directly limits the EPA's ability to confront the defining crisis of our era and sets a dangerous precedent that could severely inhibit the federal government's ability to act in the public interest. With this ruling, the Court's conservative majority has again sought to limit the ability of the federal government to protect the rights, health and well-being of the American people, on behalf of corporate special interests in the fossil fuel industry.

"However, after this ruling, the EPA retains strong authority to regulate greenhouse gas pollution from power plants. President Biden and EPA Administrator Michael Regan must now move forward to set stringent new standards to reduce this dangerous pollution from both new and existing facilities. This ruling increases the importance of an all-of-government approach to decrease greenhouse gas pollution. President Biden and Congress must take action now to pass a reconciliation bill that makes major investments in clean energy and environmental justice. The Court's attack on federal climate action also raises the stakes for state leadership: governors must step up and take action to speed America's transition to 100% clean, affordable energy and create millions of clean energy jobs in their states."

The Clean Air Act is one of the most popular and effective laws in American history. Its authorities have allowed the EPA to prevent mass pollution that would otherwise pose extreme health risks to millions of Americans. And the Act does so with incredible economic efficiency, delivering $30 in benefits for every $1 in cost. The Act is also an important tool to protect Black, Brown, Indigenous, and frontline communities all over this country that bear the worst impacts of pollution and climate change.

On Thu, Jun 30, 2022 at 12:05 PM Dani Hupper <dani@evergreenaction.com> wrote:

Hi Joe, Tomás, and Tim,

Today's *West Virginia v. EPA* SCOTUS decision, as you know, is a big blow to climate progress.

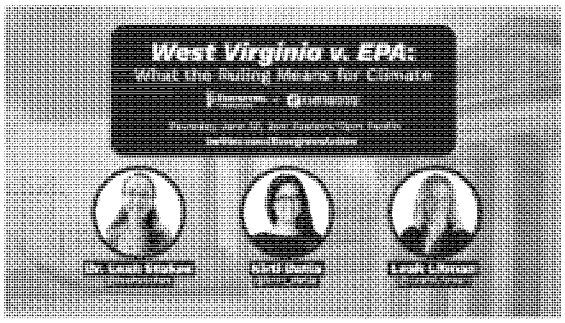
We would like to invite you to join Evergreen Action for a Twitter Spaces conversation *today, 6/30 at 3 PM* with climate and legal experts to discuss the ruling's implications and what it means for the climate. We hope to see you there.

I will follow up with our statement and a memo on the *10 Climate Actions Democrats Can Take After West Virginia v EPA* ASAP.

WHEN: TODAY, 6/30 at 3 PM EST
WHO:

- Kirti Datla, Director of Strategic Legal Advocacy at Earthjustice
- Prof. Leah Litman, Univ. of Michigan
- Dr. Leah Stokes, Univ. of California Santa Barbara & Evergreen Senior Policy Advisor

WHERE: Twitter Spaces, watch here.



Despite today's tremendous setback, we are deeply committed to doing everything we can to support this administration in achieving the President's climate and environmental goals. Please do not hesitate to let us know if there is anything we can do to be of assistance.

Sincerely,

Dani Hupper
Climate Advocate, Evergreen Action
(Cell) 646-301-7217

Message

From: Carpenter, Wesley [Carpenter.Wesley@epa.gov]
Sent: 7/1/2022 12:28:28 PM
To: O'Donnell, Sean [ODonnell.Sean@epa.gov]; Leadership_Deputy_Regional_Administrators [Leadership_Deputy_Regional_Administrators@epa.gov]; Leadership_Deputy_Assistant_Administrators [Leadership_Deputy_Assistant_Administrators@epa.gov]; AO Staff Office Directors and AA's [AO_Staff_Office_Directors_and_AAs@epa.gov]
CC: Gibson, Neshawne [Gibson.Neshawne@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Atkinson, Emily [Atkinson.Emily@epa.gov]; Lamson, Amy [Lamson.Amy@epa.gov]; Zinsmeister, Emma [Zinsmeister.Emma@epa.gov]; Young, Margo [Young.Margo@epa.gov]; Collin, Robin [Collin.Robin@epa.gov]; Snyder, Rodney [Snyder.Rodney@epa.gov]; Welch-White, Venus [WelchWhite.Venus@epa.gov]; HQ-COS [HQ-COS@epa.gov]; Cole, Danielle [Cole.Danielle@epa.gov]; Kaldani, Jason [Kaldani.Jason@epa.gov]; Besch, Brianna [besch.brianna@epa.gov]; Hartzell, Sharon [hartzell.sharon@epa.gov]; Hoover, Zealan [Hoover.Zealan@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Gaines, Cynthia [Gaines.Cynthia@epa.gov]; Monger, Jon [Monger.Jon@epa.gov]
Subject: EPA Weekly Cabinet Report & Addendum - June 30, 2022
Attachments: EPA Weekly Cabinet Report Final June 30 2022.docx; EPA Weekly Cabinet Infrastructure_Addendum June 30 2022.docx

IG/DAAs/DRAs/AO SODs & AAs:

Good morning. I am sharing the subject weekly cabinet report and BIL addendum with you for situational awareness purposes. Please keep the report and addendum close hold. Thanks, and have a nice day, weekend, and July 4th holiday.

Wes

Wesley J. Carpenter
Deputy Chief of Staff for Management
EPA's Office of the Administrator
Tel. No.: 202-564-2019
Cell Phone: 202-497-4392
E-mail: carpenter.wesley@epa.gov

Message

From: epa@lists.4cleanair.org [epa@lists.4cleanair.org]
on behalf of Miles Keogh [mkeogh@4cleanair.org]
Sent: 7/1/2022 4:23:01 PM
To: washington_update@lists.4cleanair.org; mjo@lists.4cleanair.org; members@lists.4cleanair.org; epa@lists.4cleanair.org
Subject: The Washington Update
Attachments: ATT00001.txt

Clean Air Agencies,

On Monday, Americans will light fireworks (or better still, go to a drone light show) to remember a bureaucratic procedure, the official adoption of the Declaration of Independence by the Continental Congress in Philly in 1776 (although, just so you know, everyone put their fancy signatures on the document on July 2). Independence Day is really about courage though – it celebrates the valor and spirit of the freedom fighters who called for an end to British rule over this country, every one of whom faced a grim death sentence if captured. I admire their bravery so much, and yet it's also worth remembering that courage comes in many forms. There's the visible bravery of making a speech and signing a document and standing up and changing the world. There's also the quiet daily courage of facing an unseen decision between a harder and an easier choice, and choosing what's right without witness. Sometimes those daily moments come suddenly to light. More frequently though, those difficult, right, courageous choices simply add up, day after day of making them, and it's in that accumulated and persistent record of bravery that a lot of changes happen to make the world better. In your jobs, you are called on to exercise that quieter version of courage all the time. I really admire, appreciate and celebrate that. You're what's making this country work. Happy Independence Day, friends.

This week's *Washington Update*:

- In WV Case, Supreme Court Curbs EPA Clean Air Act Climate Authority
- House Committee Approves FY 2023 Spending Bill with Increases for State/Local Air Grants
- Organizations File Suit Over Endangerment Finding
- Indoor Air Study Finds Benzene and Other HAPs from Natural Gas in Homes
- Growth Energy Challenges EPA's Alternative RFS Compliance Demonstration Approaches for Small Refineries
- NACAA Testifies in Support of California's Requests for Waivers of Preemption for Heavy-Duty Vehicle Regulations

Hey, I'm getting a lot of questions about yesterday's Supreme Court decision – in addition to the Update article above, maybe you'll find this plain-English FAQ I put together for the NACAA Climate Change Committee a helpful resource (it doesn't evaluate the merits of anything, it's just my unpacking of what I think is in the decision). https://www.4cleanair.org/wp-content/uploads/NACAA-WV-v-EPA-FAQ-7_1_22.pdf

Next week on the NACAA Calendar, our Enforcement Committee meets on Wednesday, July 6. Details, as always, on AirWeb!

Here's this week's NACAA *Washington Update* link:
https://www.4cleanair.org/newsletter/june-25-july-1-2022/

Until next week,

Wishing you well,

Miles

Miles Keogh
Executive Director
National Association of Clean Air Agencies
1530 Wilson Boulevard, Suite 320
Arlington, VA 22209
(571) 970-6795
mkeogh@4cleanair.org
www.4cleanair.org

Message

From: Profeta, Timothy [Profeta.Timothy@epa.gov]
Sent: 7/1/2022 8:03:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]
Subject: GCC Updates: Upcoming West Virginia v. EPA webinar (July 6); New blog on EV deployment; Greauxing Resilience at Home webinar recording now available

Per my earlier email, Gtown Climate Center will have a panel on our favorite SCOTUS case at noon on 7/6.

Tim

News & Updates from the Georgetown Climate Center

Understanding the Supreme Court's Decision: West Virginia v. EPA

GCC to host webinar July 6 at 12 PM ET

Join GCC for a discussion on the Supreme Court's decision in *West Virginia v. Environmental Protection Agency*. What does the opinion mean for EPA's ability to require carbon emission reductions from existing power plants? What form can EPA's forthcoming greenhouse gas regulations take? What role does the decision leave states? What does it reveal about the Court's approach to environmental regulations going forward? A panel of Clean Air Act experts will examine the implications of the ruling. Register for the Zoom webinar.

GCC's Kate Zyla shares statement on West Virginia v. EPA Supreme Court Decision

GCC Executive Director Kate Zyla released the following statement on the Supreme Court's June 30 decision on *West Virginia v. Environmental Protection Agency*:

"The Supreme Court's decision today makes it harder for the U.S. Environmental Protection Agency to reduce greenhouse gas pollution at a time when the urgent need to address the causes of climate change is only growing.

While today's decision represents an unwelcome obstacle to fighting climate change as aggressively as needed, we urge EPA to continue to use all the authorities at its disposal — including its continued authority to regulate greenhouse gas pollution from power plants and other sources — to carry out its mission to protect human health and the environment.

Achieving the needed transition to clean energy and responding to the dangerous impacts of a warming climate, including those that communities are already facing, will require a concerted effort at every level of government. We encourage EPA to continue to work alongside state and local governments to rise to the challenge."

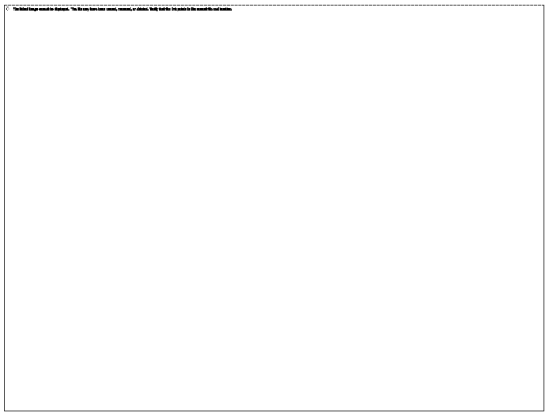
8 Ways US States and Cities Can Create a National EV Charging Network

New Blog from GCC and World Resources Institute

Electric vehicles reduce climate pollution and provide cost savings compared to gasoline and diesel vehicles, and a growing number of US drivers are purchasing EVs. To accelerate the transition to electric vehicles, significant investment in charging infrastructure for cars, trucks, and buses is needed. The Bipartisan Infrastructure Law is providing an unprecedented federal investment in EV charging stations, and states and cities across the country are preparing to deploy the new federal funding. In a new blog, GCC and World Resources Institute outline eight ways US states and cities can effectively and equitably invest federal infrastructure funding to develop a national EV charging network.

Drawing on examples of states at the forefront of innovative EV policies, steps include:

- Coordinate planning processes across agencies and levels of government;
- Remove local barriers to charging infrastructure installation;
- Use equitable and community-led planning processes;
- Look to multiple federal funding programs to expand resources for electrification; and more.



Electric vehicles charge outside an apartmet complex. (Photo Credit: Erik Nelson, NREL)

"While home or workplace charging offers a convenient and low-cost option for many EV drivers and will be the location for most EV charging, a robust public charging network is also necessary so drivers can find a convenient source of power when they need it, even when they're far from home," write authors Devashree Saha, Matthew Goetz, Dan Lashof, and Franz Litz. They also emphasize the importance of focusing clean transportation infrastructure investments in communities that are overburdened by air pollution and underserved by current transportation systems.

Creating a national electric vehicle charging network is an important strategy in reducing the US' greenhouse gas emissions – over a third of which come from transportation – and fighting climate change.

Read the full blog on GCC's website.

ICYMI: *Greauxing Resilience at Home* Now Available

View webinar recording on the GCC website

Over 130 people joined GCC and Capital Region Planning Commission (CRPC) for the release of *Greauxing Resilience at Home: A Regional Vision*, a set of legal, policy, and

planning resources to promote community resilience through affordable housing and nature-based solutions in places where flooding, extreme weather events, and other factors are driving population changes and transitions. Developed over the course of two years with individuals with expertise on Louisiana's local challenges and community members with lived experiences, the Regional Vision includes a set of locally-informed goals and strategies for increasing regional and local resilience in the face of flooding and housing challenges. It is accompanied by a set of case studies exploring examples, tools, and best and emerging practices from communities across the US. A recording of the webinar is now available.

GCC project lead Senior Associate Katie Spidalieri and Justice Fellow Suhasini Ghosh joined CRPC's Rachelle Sanderson and Jamie Setze in Baton Rouge to celebrate with work group members and partners in the collaborative effort that brought the Regional Vision to life. See more pictures from the event on the GCC website.

Learn more on the GCC website

Explore Greasjxing Resilience at Home: A Regional Vision

View the June 16 webinar recording

Access A Collection of Lessons and Case Studies from Louisiana and Beyond

GCC staff gathered with CRPC, members of the Regional Vision's work group, and local partners at the Center for River Studies at Louisiana State University in Baton Rouge.

Georgetown Climate Center | 600 New Jersey Avenue, NW, Washington, DC 20001

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Sent by climate@law.georgetown.edu

Message

From: DeLuca, Isabel [DeLuca.Isabel@epa.gov]
Sent: 7/1/2022 10:22:57 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; Davis, Alison [Davis.Alison@epa.gov]; Millett, John [Millett.John@epa.gov]
Subject: 7.1.22 Key Messages WV v EPA - 450pm.docx
Attachments: 7.1.22 Key Messages WV v EPA - 450pm.docx

FYI some more key messages on WV v EPA that the AO plans to share with the regions. These seem very much in line with the Administrator's statement.

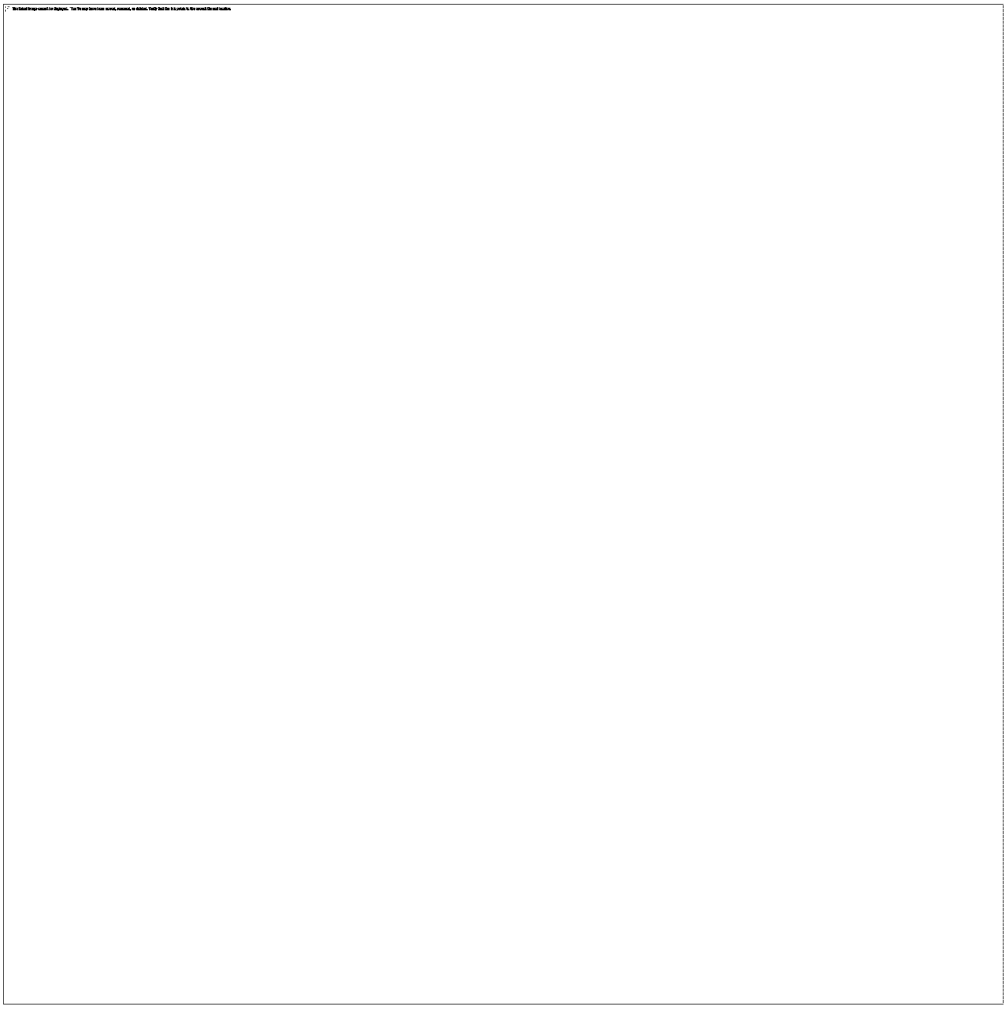
Message

From: POLITICO's Power Switch [powerswitch@email.politico.com]
Sent: 7/1/2022 9:00:58 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: What climate rules are OK? No one knows

Jul 01, 2022 View in browser

BY **ARIANNA SKIBELL**

Presented by Chevron



Francis Chung/E&E News

Battle of the branches — The Supreme Court went big by going small in yesterday's landmark climate case.

The court axed an Obama-era plan to curb carbon pollution from power plants. But it didn't launch a full assault on the Environmental Protection Agency's authority to slash heat-trapping emissions, as some climate activists had feared.

Some legal scholars say by keeping its ambitions modest, the high court has actually crowned itself king in deciding future climate cases — and left it utterly unclear what rules EPA is allowed to issue.

"What I see is the Supreme Court really just grabbing more power for itself under the guise of suggesting that it's critical to keep the balance between the legislative

and executive branches," said Jennifer Danis, a senior attorney at the libertarian-leaning Niskanen Center.

The court's conservative majority argues that the executive branch overstepped its authority in drafting former President Barack Obama's Clean Power Plan.

And when it comes to "major questions" of political or economic significance — like a national program to cut emissions — the days of giving federal agencies leeway to interpret ambiguous statutes however they want are over.

The "major questions" doctrine is an attempt to rein in what the court sees as regulatory overreach. The problem is the court has yet to define exactly what counts as a major question, said Richard Revesz, an environmental professor at New York University Law School.

"They presented the doctrine in a kind of amorphous and unbounded way," he said. "And we just don't know what this means for the next EPA regulation or the next regulation by any other agency."

Conservative legal scholar Todd Gaziano said he agrees that the court has not "made perfectly clear" what constitutes a major question.

"I sympathize with that concern, but the court usually decides these kinds of important matters in a case by case decision," said Gaziano, of the Pacific Legal Foundation. "But it is not a power grab for the court to properly decide that the original framework of our Constitution is still required."

By that he means that Congress, not the agencies, writes the laws. "Congress has increasingly dodged its responsibility, and agencies have increasingly decided to try to engage in policy with the pen and the phone," he said. "This puts the pressure back on Congress."

Long dead, embalmed and buried is President Joe Biden's massive social spending bill, which included a whopping $550 billion for cleaning up the grid and other climate programs.

Democrats have so far failed to sway swing-vote moderate Sen. Joe Manchin (D-W.Va.), who has said he might support a slimmed down version of the bill — but time is running out and numerous obstacles remain.

Read our coverage about what the court's decision means for EPA and clean electricity.

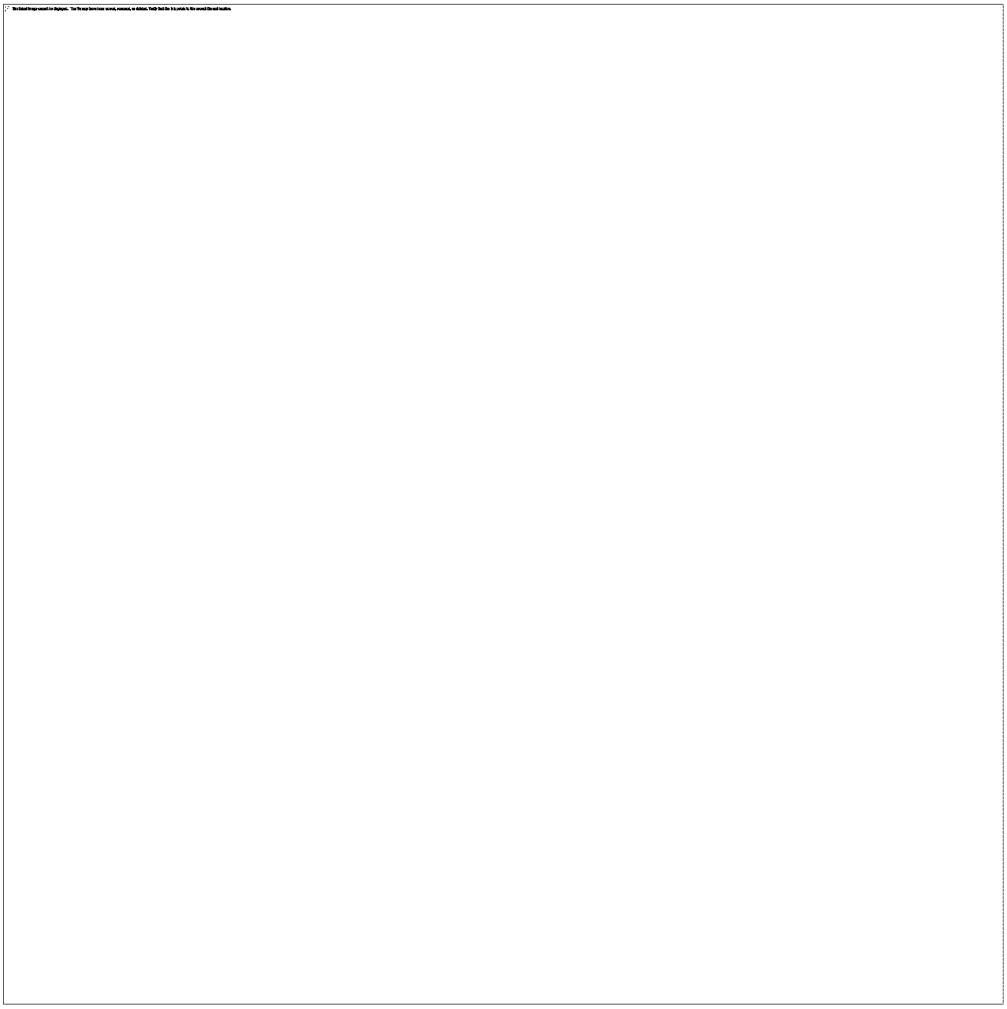
Thank goodness it's Friday — this concludes the first week of ***POLITICO's Power Switch****, thank you for tuning in! I'm your host, Arianna Skibell. Power Switch is brought to you by the journalists behind* ***E&E News*** *and* ***POLITICO Energy****. Send your tips, comments, questions to askibell@eenews.net.*

Programming Note: We'll be off this Monday for the Fourth of July but will be back in your inboxes on Tuesday.

A message from Chevron:

At Chevron, we believe the fuels of the future can help power a brighter future. Find out how we're working to increase our hydrogen fuel production to help make heavy-duty transport lower carbon.

PICTURE THIS



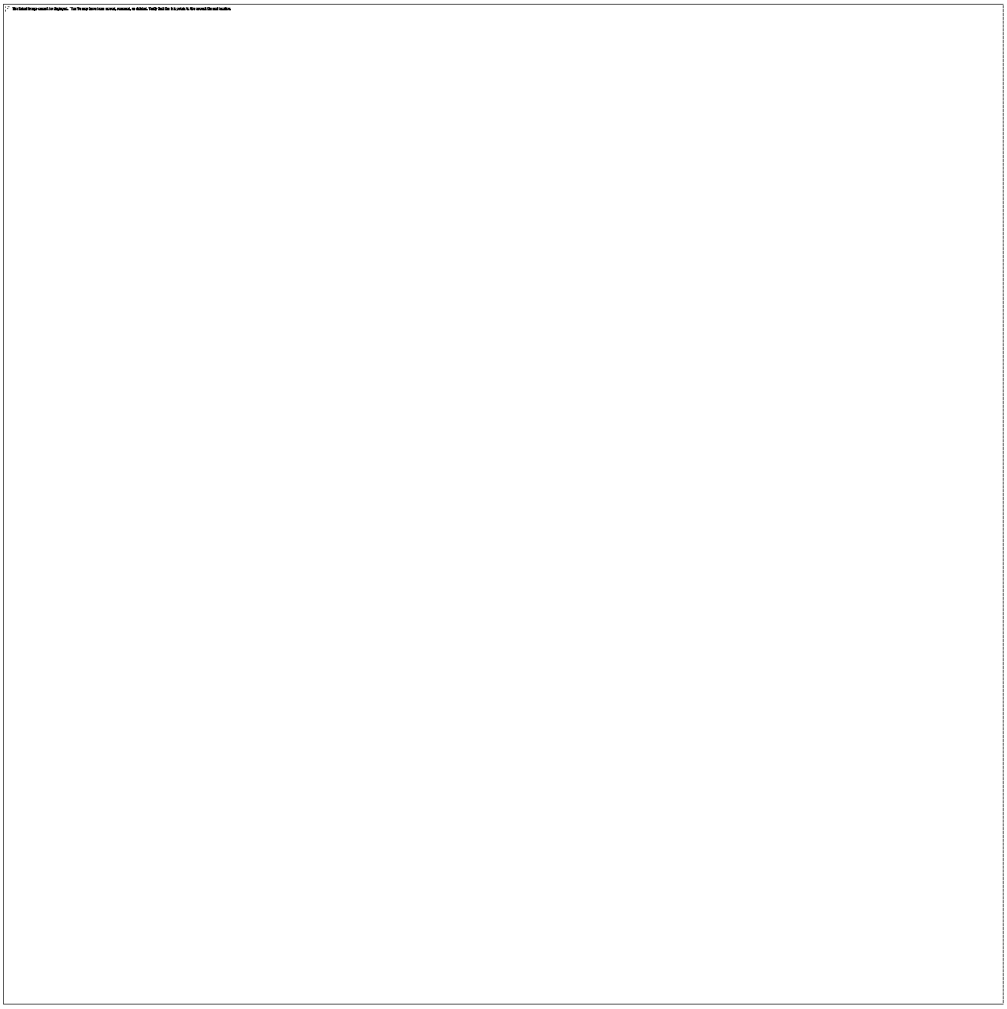
North Sea, Netherlands, 2015. | Sarah Cameron Sunde

In response to Superstorm Sandy and the reality of sea-level rise, New York-based artist **Sarah Cameron Sunde** stood in water for 12 hours and 48 minutes while the tide rose and fell over her.

That moment has grown into a collaborative performance piece involving hundreds of people all around the world who live near a body of water where sea levels are expected to rise.

The culminating work in the series will take place in New York this fall.

POWER CENTERS



West Virginia Attorney General Patrick Morrisey. | Win McNamee/Getty Images

On the chopping block

After his victory yesterday in the Supreme Court, West Virginia Attorney General Patrick Morrisey (R) said he now intends to go after the Securities and Exchange Commission's climate risk disclosure rule, writes **Avery Ellfeldt**.

Morrisey said the SEC's rule, which would require public companies to disclose their carbon footprint, intentionally sidesteps the will of Congress. Get the story here.

Fleeing D.C.

After 18 months of frustration with major setbacks to Biden's climate agenda, environmentalists and their Democratic allies are giving up on Washington, shifting their focus to state capitals, writes **Zack Colman**.

"There's lots of tension around what comes next. I think the power is going to be outside of Washington, D.C.," said Christy Goldfuss of the Center for American Progress. Read the story here.

Crypto climate push

Crypto companies will have to disclose just how much climate damage is tied to the tokens they're hawking, at least in Europe, writes **Lisa Martine Jenkins**.

The European Parliament and E.U. states have agreed to regulate cryptocurrencies, whose generation requires obscene amounts of energy. While the law does not impose a limit, it's a major step toward opening crypto's black box. Here's the story.

IN OTHER NEWS

Highway smackdown: The Biden administration has announced a record $1 billion investment to tear down highways that divided and pollute communities of color. You may not know this, but the U.S. highway system was influenced by Adolf Hitler's design in Germany. Yikes!

Got those climate blues? Climate anxiety is now considered a very real, diagnosable mental health condition. Experts say limiting your social media can help. Good luck with that.

Today in the POLITICO Energy podcast: Alex Guillén explains how yesterday's Supreme Court rulingkneecaps Biden's ability to address global warming and could raise questions about the authority of other federal agencies.

A message from Chevron:

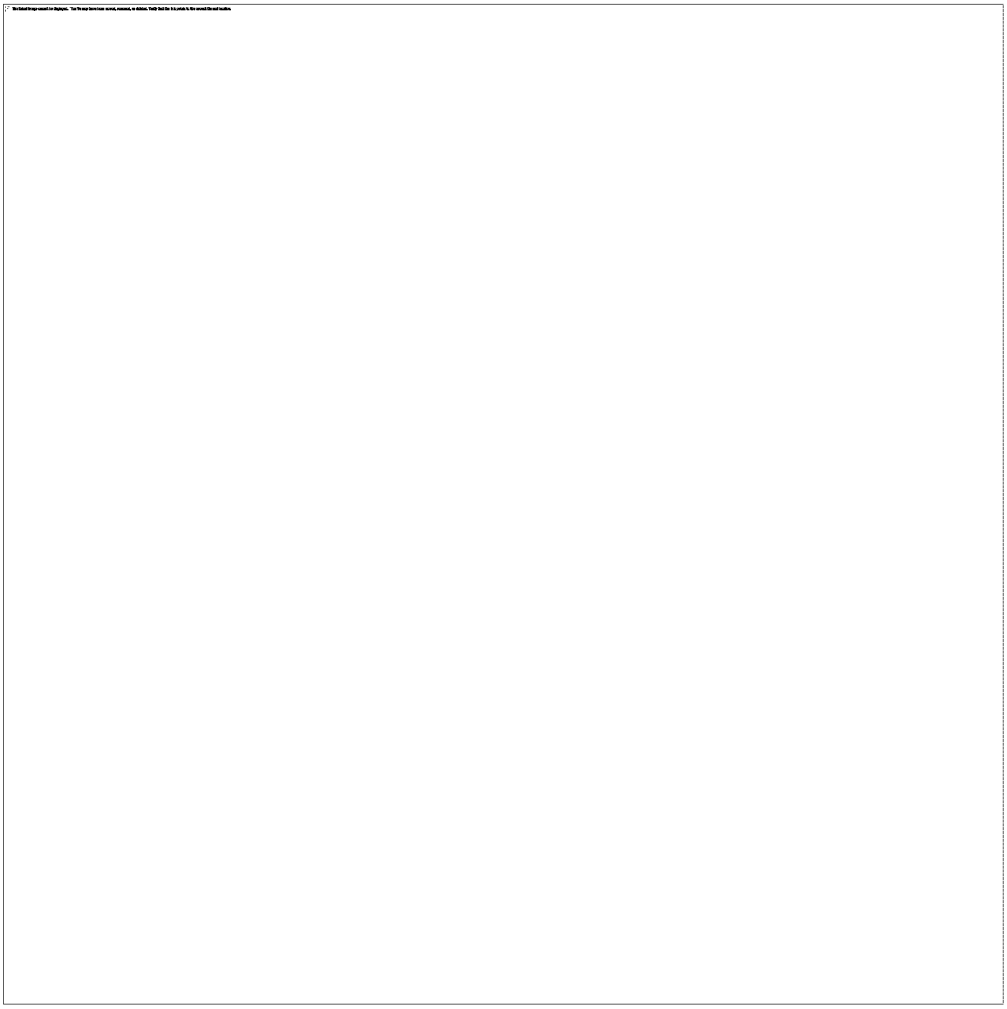
QUESTION CORNER

The science, policy and politics driving the energy transition can feel miles away. But **we're all affected** on an individual and communal level — from hotter days and higher gas prices to home insurance rates and food supply.

Want to know more? Send me your questions with **"Question Corner"** in the subject line. We'll pick a handful to answer each week in the newsletter.

SUBSCRIBER ZONE

A showcase of some of our best subscriber content.



The Leuna oil refinery and chemical park. | Sean Gallup/Getty Images

Lawsuits are increasingly targeting governments and companies for climate inaction or greenwashing, posing a rising threat to fossil fuel majors and other corporate polluters.

The Biden administration has been approving permits to drill for oil on federal land at a faster clip than the Trump administration did over a comparable period.

Calif. Gov. Gavin Newsom (D) is postponing the closure of natural gas plants, in a controversial move to keep the lights on during summer heat waves.

That's it for today, folks. Thanks for tuning in, and have a great weekend!

A message from Chevron:

Energy demand is growing. At Chevron, we believe that demand for lower carbon hydrogen fuel could more than triple by 2050. That's why we're working to grow our hydrogen production to 150,000 tonnes per year by 2030 to help make heavy-duty transport lower carbon. Because we believe the future of energy is lower carbon. And it's only human to reach for it.

Follow us on Twitter

Arianna Skibell @ariannaskibell

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source=GoggleDocument, article=00000181-b9e1-daca-a1ab-b9e343b00000

Message

From: This Week @ EPA [epanews@epa.gov]
Sent: 6/27/2022 6:31:11 PM
Subject: This Week@EPA - June 27, 2022

THIS WEEK @ EPA

Summer Photo Call! Summer is here, please share your summer-themed photos with us. For examples of previous uses of these photos and for submission details, please connect to your VPN and see our guidance information on EPA@Work. We've added a photo upload tool to make it even easier to submit your photos. Questions can be sent to: internalcomms@epa.gov.~ The Office of Internal Communications

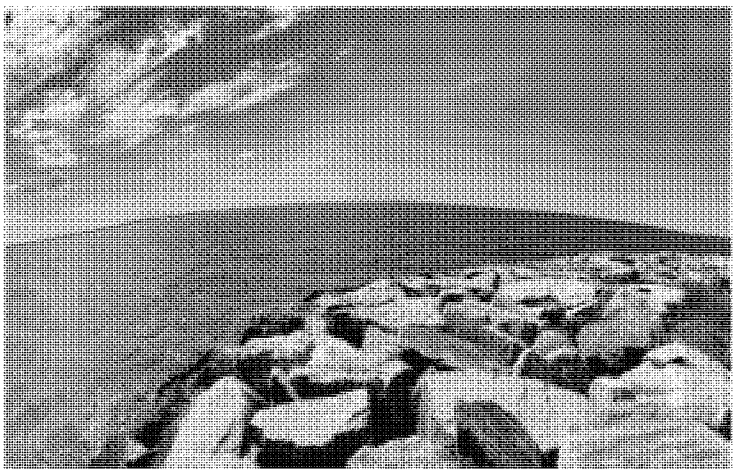


Photo of the Week: Point Lookout View Image by Derek Corbin, Office of Chemical Safety and Pollution Prevention.

View Collection >

IN CASE YOU MISSED IT

- Administrator Regan Sends a Note on the Friday SCOTUS Decision.
- Deputy Administrator McCabe Gives a Midpoint Update on the Employee Viewpoint Survey.

View Mass Mailers >

- EPA Releases Initial List of Programs Covered Under the Biden-Harris Administration's Justice40 Initiative.
- EPA Announces $18 Million for Training and Technical Assistance for Small, Rural and Tribal Wastewater Improvements.
- EPA and Army Host Southeast-Focused Virtual Regional WOTUS Roundtable.
- EPA and Army Host West-Focused Virtual Regional WOTUS Roundtable.
- EPA Local Government Advisory Committee Adopts Recommendations to Support Communities Nationwide.

Browse News Releases >

This week we recognize these EPA employees:

- **Heather Wright, OMS**: Heather is the Federal Library Manager at Andrew W. Breidenbach Environmental Research Center (AWBERC) Library in Cincinnati. For 15 years she has helped AWBERC Library meet local research needs as well as provide support to multiple other EPA libraries. Learn more about Heather.

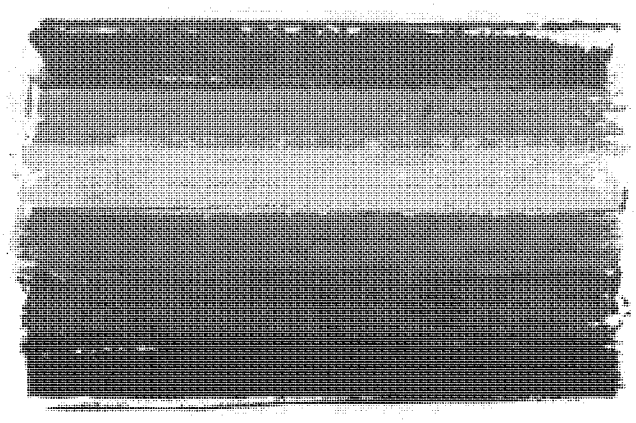
- **Jessica Schiff, Region 1:** In honor of Pride Month, EPA is highlighting Jessica Schiff (she/her) from Region 1, who is a member of the LGBTQ+ community. Jessica, hailing from Massachusetts, is a Lead Program Project Manager in the Land, Chemicals, and Redevelopment Division (LCRD). Learn more about Jessica.

- **Jodi Harper, Region 7:** This week in honor of Pride Month, we introduce you to Jodi Harper (she/her), the Secretary of EPA's LGBTQ+ Advisory Council and the Region 7 LGBTQ+ Special Emphasis Program Manager Jodi began her federal career as an Environmental Engineer in EPA Region 7's Air & Waste Management Division in 2008. Learn more about Jodi.

- **Laura Drummond, OW**: In honor of Pride Month, EPA is highlighting Laura Drummond. Laura is a Program Analyst in the Office of Water. Laura is also a Special Emphasis Program Manager and proud bi member of the LGBTQ + Employee Program. Learn more about Laura.

- **Latisha McFarland, OMS:** Tisha is currently the Microsoft 365 Training Program Manager and has over 16 years of communications experience. Learn more about Tisha.

Nominate an employee >



EPA's 20th Annual Pride Month Program

Please join EPA's 20th Annual Pride Month Observance, celebrating EPA's Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual (LGBTQIA+) community. This year's theme is "Being an Ally to LGBTQIA+ Employees and Family Members" as stated in the Presidential Pride Month Proclamation. Read more about the Pride Month Observance here.

EPA Establishes Cash Awards for Process Improvements

The Office of the Chief Financial Officer (OCFO) announced the establishment of EPA's newest award program this month. The Process Improvement Awards is a cash award program that recognizes outstanding improvements to operational processes using Lean tools like visual management and problem solving. Learn more about the program here.

Updated Digital Accessibility Intranet Site

The Office of Mission Support's Office of Enterprise Information Programs published an updated digital accessibility intranet site. Learn about the agency's ongoing commitment to providing guidance and tools for all EPA employees.

EPA Perspectives: Oceans Month

The year 2022 marks the 50th Anniversary of the Marine Protection, Research and Sanctuaries Act. In the 50 years since the act was signed into law, the Ocean Dumping Management Program has prevented the disposal of many harmful and toxic materials in the ocean. Learn more about EPA's ocean protection work and how you can help protect and preserve ocean resources in this EPA Perspectives Article.

Instructions for time and attendance for Pay Period 14, 2022, June 19-July 2, 2022

This is time and attendance guidance for Pay Period 14, 2022, June 19-July 2, 2022. Due to the July 4th holiday, all time and attendance for agency employees must be input and attested to by the employee and approved by their supervisor. Please see instructions for time and attendance.

Internal News >

EVS Spotlight: Key Information

The Employee Viewpoint Survey (EVS) is ongoing to July 15 at 11:59 EDT. Your opinions matter! Have you seen your office's response rate?

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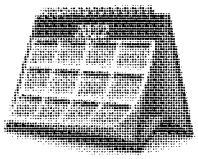
EPA Juneteenth commemoration event featuring a fireside chat between Administrator Regan and our keynote speaker Dr. Opal Lee.

View video >



June 27: LGBTQ+ SES panel on MS Teams
June 28: Timecard Corrections Due from Prior Pay Periods for Pay Period 14
June 29: Time and Attendance for Pay Period 14 ending July 2, 2022
June 30: Being an Ally to LGBTQIA+ Employees and Family Members

Please visit the agency calendar (VPN required) to add agency events to your Outlook calendar. For help adding agency calendar items to your Outlook calendar, please see: How to Easily Add Agency Calendar Events to Outlook.
.

View Agency Calendar >

We would love to hear our feedback about this newsletter. Please contact us at internalcomms@epa.gov | https://work.epa.gov/ao/about-office-internal-communications

Looking for previous editions of the newsletter? Go to the Newsletter Archive.

Message

From: Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Sent: 6/28/2022 8:33:10 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Kim, Eunjung [Kim.Eun@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: Materials for Wednesday, June 29
Attachments: Briefing Materials: AA Level Coordination Marine Litter and Plastics; Briefing Materials: R. Snyder Briefing - EPA-USDA-DOI Prescribed Burning Discussion; Briefing Materials: Goffman Briefing - HON & SOCMI NSPS Early Guidance; Materials attached for: Title V Background (scheduled for Wednesday, June 29, 2022 1:00 PM-1:30 PM); Briefing Materials: M. Hoffer - WY Regional Haze - Settlement Options and Paths Forward

Carbonell, Tomas Calendar
Carbonell.Tomas@epa.gov
On Wednesday, June 29, 2022
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

June 2022

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		

Busy — Tentative — Free
Out of Office — Working Elsewhere — Outside of Working Hours

June 2022

Wed, Jun 29

	Before 8:00 AM	**Free**
	8:00 AM – 9:00 AM	**Free**
	9:00 AM – 9:25 AM	Management Roundtable
	9:25 AM – 9:30 AM	**Free**
	9:30 AM – 9:55 AM	Air Issues Meeting
	9:55 AM – 10:00 AM	**Free**
	10:00 AM – 10:30 AM	OTAQ Weekly
	10:30 AM – 10:55 AM	WY Regional Haze - Settlement Options and Paths Forward (1 email)
	10:55 AM – 11:00 AM	**Free**
	11:00 AM – 11:20 AM	Weekly Check-in with Tomas

☐	**11:20 AM – 11:30 AM**	**Free**
■	11:30 AM – 12:00 PM	EtO "Tiger Team" Weekly
■	12:00 PM – 12:30 PM	EPA-USDA-DOI prescribed burning discussion (1 email)
▨	12:30 PM – 1:00 PM	HOLD SCOTUS Check-In
▨	1:00 PM – 1:30 PM	Title V Background (1 email)
▨	1:30 PM – 1:55 PM	One-on-One with Chris Grundler
☐	**1:55 PM – 2:00 PM**	**Free**
■	2:00 PM – 2:50 PM	Virtual Meeting: HON & SOCMI NSPS Early Guidance (1 email)
☐	**2:50 PM – 3:00 PM**	**Free**
▨	3:00 PM – 3:45 PM	Power Sector Biweekly
☐	**3:45 PM – 4:00 PM**	**Free**
■	4:00 PM – 5:00 PM	AA Level Coordination Meeting on Marine Litter and Plastics (1 email)
☐	**After 5:00 PM**	**Free**

Respectfully,
Thierry Kabanda
Executive Staff Assistant
Office of Air and Radiation
US Environmental Protection Agency
Mobile: (202) 281-6537
kabanda.thierry@epa.gov

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 6/29/2022 2:44:31 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]
Subject: RE: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

My thought exactly. Was looking at the calendar for that already.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Wednesday, June 29, 2022 10:43 AM
To: Culligan, Kevin <Culligan.Kevin@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>
Subject: RE: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

We should probably hold some time for the power sector team to confer tomorrow as well, now that we know tomorrow is last opinion day

---

From: Culligan, Kevin <Culligan.Kevin@epa.gov>
Sent: Wednesday, June 29, 2022 10:42 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

Sounds good

From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Wednesday, June 29, 2022 10:38 AM
To: Culligan, Kevin <Culligan.Kevin@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

Sounds like there is a subject Peter may wish to raise? So, I've reduced it to 30 minutes.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Culligan, Kevin <Culligan.Kevin@epa.gov>
Sent: Wednesday, June 29, 2022 10:36 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

Unless Tomas/Joe disagree, sounds like we should be moving to tomorrow.

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 6/29/2022 3:12:51 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]
Subject: RE: Think plan for today's power sector biweekly was to chat about Supreme Court Decision

I might be able to give you all 45 minutes at 2:45. Stand by – hoping to take the CARB meeting down.
Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Wednesday, June 29, 2022 10:43 AM
To: Culligan, Kevin <Culligan.Kevin@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>
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From: Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Sent: 6/29/2022 8:44:08 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Kim, Eunjung [Kim.Eun@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: Materials for Thursday, June 30
Attachments: FW: Montreal Protocol meeting materials; OAR Resource Powerpoint with Talkers

Carbonell, Tomas Calendar
Carbonell.Tomas@epa.gov
On Thursday, June 30, 2022
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

June 2022

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		

Busy
Out of Office
Tentative
Working Elsewhere
Free
Outside of Working Hours

June 2022

Thu, Jun 30

	Before 8:00 AM	**Free**
	8:00 AM – 9:00 AM	**Free**
	9:00 AM – 9:25 AM	Management Roundtable
	9:25 AM – 9:30 AM	**Free**
	9:30 AM – 9:55 AM	Comms weekly
	9:55 AM – 10:00 AM	**Free**
	10:00 AM – 10:30 AM	Call w/ Keri Powell
	10:30 AM – 11:00 AM	OAR Senior Staff
	11:00 AM – 11:30 AM	Monthly ORD/OAR
	11:30 AM – 11:45 AM	**Free**
	11:45 AM – 12:30 PM	Montreal Protocol Open-Ended Working Group (OEWG) meeting pre-brief and ExCom meetings recap (1 email)

▨	12:00 PM – 1:30 PM	EPA's 20th Annual Pride Month Observance
▨	12:30 PM – 1:00 PM	HOLD SCOTUS Check-In
■	1:00 PM – 1:30 PM	Pre-brief SAC FY 23 Report and Bill Language Requests
□	**1:30 PM – 3:00 PM**	**Free**
▨	3:00 PM – 3:45 PM	HOLD || Power Sector Check-in
▨	3:00 PM – 4:00 PM	Wildfire Resilience Interagency Working Group Meeting
▨	3:00 PM – 4:30 PM	Goal 2 Strategic Plan
▨	4:00 PM – 5:00 PM	Video-call:: Discuss the FY 2024 Budget, OCFO and OAR (1 email)
□	**After 5:00 PM**	**Free**

Respectfully,
Thierry Kabanda
Executive Staff Assistant
Office of Air and Radiation
US Environmental Protection Agency
Mobile: (202) 281-6537
kabanda.thierry@epa.gov

Message

From: E&E News [alert@email.eenews.net]
Sent: 6/30/2022 2:13:43 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: E&E News alert: Supreme Court curbs EPA climate authority

Supreme Court curbs EPA climate authority
The Supreme Court ruled today that EPA is prohibited from broadly regulating greenhouse gas emissions from power plants.

The 6-3 ruling in *West Virginia v. EPA,* the most significant climate case in a decade, delivers a blow to President Joe Biden's efforts to tackle planet-warming emissions and make electricity generation carbon-free by 2035.

Read more here.

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

WEST VIRGINIA ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20–1530. Argued February 28, 2022—Decided June 30, 2022*

In 2015, the Environmental Protection Agency (EPA) promulgated the Clean Power Plan rule, which addressed carbon dioxide emissions from existing coal- and natural-gas-fired power plants. For authority, the Agency cited Section 111 of the Clean Air Act, which, although known as the *New* Source Performance Standards program, also authorizes regulation of certain pollutants from *existing* sources under Section 111(d). 42 U. S. C. §7411(d). Prior to the Clean Power Plan, EPA had used Section 111(d) only a handful of times since its enactment in 1970. Under that provision, although the States set the actual enforceable rules governing existing sources (such as power plants), EPA determines the emissions limit with which they will have to comply. The Agency derives that limit by determining the "best system of emission reduction . . . that has been adequately demonstrated," or the BSER, for the kind of existing source at issue. §7411(a)(1). The limit then reflects the amount of pollution reduction "achievable through the application of" that system. *Ibid.*

In the Clean Power Plan, EPA determined that the BSER for existing coal and natural gas plants included three types of measures, which the Agency called "building blocks." 80 Fed. Reg. 64667. The first building block was "heat rate improvements" at coal-fired plants—essentially practices such plants could undertake to burn coal

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*Together with No. 20–1531, *North American Coal Corp.* v. *Environmental Protection Agency et al.*, No. 20–1778, *Westmoreland Mining Holdings LLC* v. *Environmental Protection Agency et al.*, and No. 20–1780, *North Dakota* v. *Environmental Protection Agency et al.*, also on certiorari to the same court.

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more cleanly. *Id.,* at 64727. This sort of source-specific, efficiency-improving measure was similar in kind to those that EPA had previously identified as the BSER in other Section 111 rules.

Building blocks two and three were quite different, as both involved what EPA called "generation shifting" at the grid level—*i.e.,* a shift in electricity production from higher-emitting to lower-emitting producers. Building block two was a shift in generation from existing coal-fired power plants, which would make less power, to natural-gas-fired plants, which would make more. *Ibid.* This would reduce carbon dioxide emissions because natural gas plants produce less carbon dioxide per unit of electricity generated than coal plants. Building block three worked like building block two, except that the shift was from both coal and gas plants to renewables, mostly wind and solar. *Id.,* at 64729, 64748. The Agency explained that, to implement the needed shift in generation to cleaner sources, an operator could reduce the regulated plant's own production of electricity, build or invest in a new or existing natural gas plant, wind farm, or solar installation, or purchase emission allowances or credits as part of a cap-and-trade regime. *Id.,* at 64731–64732. Taking any of these steps would implement a sector-wide shift in electricity production from coal to natural gas and renewables. *Id.,* at 64731.

Having decided that the BSER was one that would reduce carbon pollution mostly by moving production to cleaner sources, EPA then set about determining "the degree of emission limitation achievable through the application" of that system. §7411(a)(1). The Agency recognized that, in translating the BSER into an operational emissions limit, it could choose whether to require anything from a little generation shifting to a great deal. It settled on what it regarded as a "reasonable" amount of shift, which it based on modeling how much more electricity both natural gas and renewable sources could supply without causing undue cost increases or reducing the overall power supply. *Id.,* at 64797–64811. The Agency ultimately projected, for instance, that it would be feasible to have coal provide 27% of national electricity generation by 2030, down from 38% in 2014. From these projected changes, EPA determined the applicable emissions performance rates, which were so strict that no existing coal plant would have been able to achieve them without engaging in one of the three means of generation shifting. The Government projected that the rule would impose billions in compliance costs, raise retail electricity prices, require the retirement of dozens of coal plants, and eliminate tens of thousands of jobs.

This Court stayed the Clean Power Plan in 2016, preventing the rule from taking effect. It was later repealed after a change in Presidential administrations. Specifically, in 2019, EPA found that the Clean

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Power Plan had exceeded the Agency's statutory authority under Section 111(d), which it interpreted to "limit[ ] the BSER to those systems that can be put into operation *at* a building, structure, facility, or installation." 84 Fed. Reg. 32524. EPA explained that the Clean Power Plan, rather than setting the standard "based on the application of equipment and practices at the level of an individual facility," had instead based it on "a shift in the energy generation mix at the grid level," *id.,* at 32523. The Agency determined that the interpretive question raised by the Clean Power Plan fell under the major questions doctrine. Under that doctrine, it determined, a clear statement is necessary for a court to conclude that Congress intended to delegate authority "of this breadth to regulate a fundamental sector of the economy." *Id.,* at 32529. It found none. The Agency replaced the Clean Power Plan by promulgating a different Section 111(d) regulation, known as the Affordable Clean Energy (ACE) rule. *Id.*, at 32532. In that rule, EPA determined that the BSER would be akin to building block one of the Clean Power Plan: a combination of equipment upgrades and operating practices that would improve facilities' heat rates. *Id.,* at 32522, 32537.

A number of States and private parties filed petitions for review in the D. C. Circuit, challenging EPA's repeal of the Clean Power Plan and its enactment of the replacement ACE rule. The Court of Appeals consolidated the cases and held that EPA's "repeal of the Clean Power Plan rested critically on a mistaken reading of the Clean Air Act"—namely, that generation shifting cannot be a "system of emission reduction" under Section 111. 985 F. 3d 914, 995. The court vacated the Agency's repeal of the Clean Power Plan and remanded to the Agency for further consideration. It also vacated and remanded the ACE rule for the same reason. The court's decision was followed by another change in Presidential administrations, and EPA moved the court to partially stay its mandate as to the Clean Power Plan while the Agency considered whether to promulgate a new Section 111(d) rule. No party opposed the motion, and the Court of Appeals agreed to stay its vacatur of the Agency's repeal of the Clean Power Plan.

Held:

1. This case remains justiciable notwithstanding the Government's contention that no petitioner has Article III standing, given EPA's stated intention not to enforce the Clean Power Plan and to instead engage in new rulemaking. In considering standing to appeal, the question is whether the appellant has experienced an injury "fairly traceable to the judgment below." *Food Marketing Institute* v. *Argus Leader Media*, 588 U. S. ___, ___. If so, and a "favorable ruling" from the appellate court "would redress [that] injury," then the appellant has a cognizable Article III stake. *Ibid.* Here, the judgment below

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vacated the ACE rule and its embedded repeal of the Clean Power Plan, and accordingly purports to bring the Clean Power Plan back into legal effect. There is little question that the petitioner States are injured, since the rule requires them to more stringently regulate power plant emissions within their borders. The Government counters that EPA's current posture has mooted the prior dispute. The distinction between mootness and standing matters, however, because the Government bears the burden to establish that a once-live case has become moot. The Government's argument in this case boils down to its representation that EPA does not intend to enforce the Clean Power Plan prior to promulgating a new Section 111(d) rule. But "voluntary cessation does not moot a case" unless it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Parents Involved in Community Schools* v. *Seattle School Dist. No. 1,* 551 U. S. 701, 719. Here, the Government "nowhere suggests that if this litigation is resolved in its favor it will not" reimpose emissions limits predicated on generation shifting. *Ibid.* Pp. 14–16.

2. Congress did not grant EPA in Section 111(d) of the Clean Air Act the authority to devise emissions caps based on the generation shifting approach the Agency took in the Clean Power Plan. Pp. 16–31.

(a) In devising emissions limits for power plants, EPA "determines" the BSER that—taking into account cost, health, and other factors—it finds "has been adequately demonstrated," and then quantifies "the degree of emission limitation achievable" if that best system were applied to the covered source. §7411(a)(1). The issue here is whether restructuring the Nation's overall mix of electricity generation, to transition from 38% to 27% coal by 2030, can be the BSER within the meaning of Section 111.

Precedent teaches that there are "extraordinary cases" in which the "history and the breadth of the authority that [the agency] has asserted," and the "economic and political significance" of that assertion, provide a "reason to hesitate before concluding that Congress" meant to confer such authority. *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U. S. 120, 159–160. See, *e.g., Alabama Assn. of Realtors* v. *Department of Health and Human Servs.,* 594 U. S. ___, ___; *Utility Air Regulatory Group* v. *EPA,* 573 U. S. 302, 324; *Gonzales* v. *Oregon,* 546 U. S. 243, 267; *National Federation of Independent Business* v. *OSHA,* 595 U. S. ___, ___. Under this body of law, known as the major questions doctrine, given both separation of powers principles and a practical understanding of legislative intent, the agency must point to "clear congressional authorization" for the authority it claims. *Utility Air,* 573 U. S., at 324. Pp. 16–20.

(b) This is a major questions case. EPA claimed to discover an

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unheralded power representing a transformative expansion of its regulatory authority in the vague language of a long-extant, but rarely used, statute designed as a gap filler. That discovery allowed it to adopt a regulatory program that Congress had conspicuously declined to enact itself. Given these circumstances, there is every reason to "hesitate before concluding that Congress" meant to confer on EPA the authority it claims under Section 111(d). *Brown & Williamson*, 529 U. S., at 160.

Prior to 2015, EPA had always set Section 111 emissions limits based on the application of measures that would reduce pollution by causing the regulated source to operate more cleanly, see, *e.g.*, 41 Fed. Reg. 48706—never by looking to a "system" that would reduce pollution simply by "shifting" polluting activity "from dirtier to cleaner sources." 80 Fed. Reg. 64726. The Government quibbles with this history, pointing to the 2005 Mercury Rule as one Section 111 rule that it says relied upon a cap-and-trade mechanism to reduce emissions. See 70 Fed. Reg. 28616. But in that regulation, EPA set the emissions limit—the "cap"—based on the use of "technologies [that could be] installed and operational on a nationwide basis" in the relevant timeframe. *Id.,* at 28620–28621. By contrast, and by design, there are no particular controls a coal plant operator can install and operate to attain the emissions limits established by the Clean Power Plan. Indeed, the Agency nodded to the novelty of its approach when it explained that it was pursuing a "broader, forward-thinking approach to the design" of Section 111 regulations that would "improve the *overall power system*," rather than the emissions performance of individual sources, by forcing a shift throughout the power grid from one type of energy source to another. 80 Fed. Reg. 64703 (emphasis added). This view of EPA's authority was not only unprecedented; it also effected a "fundamental revision of the statute, changing it from [one sort of] scheme of . . . regulation" into an entirely different kind. *MCI Telecommunications Corp.* v. *American Telephone & Telegraph Co.,* 512 U. S. 218, 231.

The Government attempts to downplay matters, noting that the Agency must limit the magnitude of generation shift it demands to a level that will not be "exorbitantly costly" or "threaten the reliability of the grid." Brief for Federal Respondents 42. This argument does not limit the breadth of EPA's claimed authority so much as reveal it: On EPA's view of Section 111(d), Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in the basic regulation of how Americans get their energy. There is little reason to think Congress did so. EPA has admitted that issues of electricity transmission, distribution, and storage are not within its traditional expertise. And this Court doubts that "Congress

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. . . intended to delegate . . . decision[s] of such economic and political significance," *i.e.*, how much coal-based generation there should be over the coming decades, to any administrative agency. *Brown & Williamson*, 529 U. S., at 160. Nor can the Court ignore that the regulatory writ EPA newly uncovered in Section 111(d) conveniently enabled it to enact a program, namely, cap-and-trade for carbon, that Congress had already considered and rejected numerous times. The importance of the policy issue and ongoing debate over its merits "makes the oblique form of the claimed delegation all the more suspect." *Gonzales*, 546 U. S., at 267–268. Pp. 20–28.

(c) Given that precedent counsels skepticism toward EPA's claim that Section 111 empowers it to devise carbon emissions caps based on a generation shifting approach, the Government must point to "clear congressional authorization" to regulate in that manner. *Utility Air*, 573 U. S., at 324. The Government can offer only EPA's authority to establish emissions caps at a level reflecting "the application of the best system of emission reduction . . . adequately demonstrated." §7411(a)(1). The word "system" shorn of all context, however, is an empty vessel. Such a vague statutory grant is not close to the sort of clear authorization required. The Government points to other provisions of the Clean Air Act—specifically the Acid Rain and National Ambient Air Quality Standards (NAAQS) programs—that use the word "system" or "similar words" to describe sector-wide mechanisms for reducing pollution. But just because a cap-and-trade "system" can be used to reduce emissions does not mean that it is the kind of "system of emission reduction" referred to in Section 111.

Finally, the Court has no occasion to decide whether the statutory phrase "system of emission reduction" refers *exclusively* to measures that improve the pollution performance of individual sources, such that all other actions are ineligible to qualify as the BSER. It is pertinent to the Court's analysis that EPA has acted consistent with such a limitation for four decades. But the only question before the Court is more narrow: whether the "best system of emission reduction" identified by EPA in the Clean Power Plan was within the authority granted to the Agency in Section 111(d) of the Clean Air Act. For the reasons given, the answer is no. Pp. 28–31.

985 F. 3d 914, reversed and remanded.

ROBERTS, C. J., delivered the opinion of the Court, in which THOMAS, ALITO, GORSUCH, KAVANAUGH, and BARRETT, JJ., joined. GORSUCH, J., filed a concurring opinion, in which ALITO, J., joined. KAGAN, J., filed a dissenting opinion, in which BREYER and SOTOMAYOR, JJ., joined.

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NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 20–1530, 20–1531, 20–1778 and 20–1780

WEST VIRGINIA, ET AL., PETITIONERS
20–1530 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

THE NORTH AMERICAN COAL CORPORATION, PETITIONER
20–1531 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

WESTMORELAND MINING HOLDINGS LLC, PETITIONER
20–1778 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

NORTH DAKOTA, PETITIONER
20–1780 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 30, 2022]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

The Clean Air Act authorizes the Environmental Protection Agency to regulate power plants by setting a "standard of performance" for their emission of certain pollutants into

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the air. 84 Stat. 1683, 42 U. S. C. §7411(a)(1). That standard may be different for new and existing plants, but in each case it must reflect the "best system of emission reduction" that the Agency has determined to be "adequately demonstrated" for the particular category. §§7411(a)(1), (b)(1), (d). For existing plants, the States then implement that requirement by issuing rules restricting emissions from sources within their borders.

Since passage of the Act 50 years ago, EPA has exercised this authority by setting performance standards based on measures that would reduce pollution by causing plants to operate more cleanly. In 2015, however, EPA issued a new rule concluding that the "best system of emission reduction" for existing coal-fired power plants included a requirement that such facilities reduce their own production of electricity, or subsidize increased generation by natural gas, wind, or solar sources.

The question before us is whether this broader conception of EPA's authority is within the power granted to it by the Clean Air Act.

I

A

The Clean Air Act establishes three main regulatory programs to control air pollution from stationary sources such as power plants. Clean Air Amendments of 1970, 84 Stat. 1676, 42 U. S. C. §7401 *et seq.* One program is the New Source Performance Standards program of Section 111, at issue here. The other two are the National Ambient Air Quality Standards (NAAQS) program, set out in Sections 108 through 110 of the Act, 42 U. S. C. §§7408–7410, and the Hazardous Air Pollutants (HAP) program, set out in Section 112, §7412. To understand the place and function of Section 111 in the statutory scheme, some background on the other two programs is in order.

The NAAQS program addresses air pollutants that "may

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reasonably be anticipated to endanger public health or welfare," and "the presence of which in the ambient air results from numerous or diverse mobile or stationary sources." §7408(a)(1). After identifying such pollutants, EPA establishes a NAAQS for each. The NAAQS represents "the maximum airborne concentration of [the] pollutant that the public health can tolerate." *Whitman* v. *American Trucking Assns., Inc.*, 531 U. S. 457, 465 (2001); see §7409(b). EPA, though, does not choose which sources must reduce their pollution and by how much to meet the ambient pollution target. Instead, Section 110 of the Act leaves that task in the first instance to the States, requiring each "to submit to [EPA] a plan designed to implement and maintain such standards within its boundaries." *Train* v. *Natural Resources Defense Council, Inc.*, 421 U. S. 60, 65 (1975); §7410.

The second major program governing stationary sources is the HAP program. The HAP program primarily targets pollutants, other than those already covered by a NAAQS, that present "a threat of adverse human health effects," including substances known or anticipated to be "carcinogenic, mutagenic, teratogenic, neurotoxic," or otherwise "acutely or chronically toxic." §7412(b)(2).

EPA's regulatory role with respect to these toxic pollutants is different in kind from its role in administering the NAAQS program. There, EPA is generally limited to determining the maximum safe amount of covered pollutants in the air. As to each hazardous pollutant, by contrast, the Agency must promulgate emissions standards for both new and existing major sources. §7412(d)(1). Those standards must "require the maximum degree of reduction in emissions . . . that the [EPA] Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable . . . through application of measures, processes, methods, systems or techniques" of emission reduction. §7412(d)(2). In other

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words, EPA must directly require all covered sources to reduce their emissions to a certain level. And it chooses that level by determining the "maximum degree of reduction" it considers "achievable" in practice by using the best existing technologies and methods. §7412(d)(3).

Thus, in the parlance of environmental law, Section 112 directs the Agency to impose "*technology-based* standard[s] for hazardous emissions," *Alaska Dept. of Environmental Conservation* v. *EPA*, 540 U. S. 461, 485, n. 12 (2004) (emphasis added). This sort of "'technology-based' approach focuses upon the control technologies that are available to industrial entities and requires the agency to . . . ensur[e] that regulated firms adopt the appropriate cleanup technology." T. McGarity, Media-Quality, Technology, and Cost-Benefit Balancing Strategies for Health and Environmental Regulation, 46 Law & Contemp. Prob. 159, 160 (Summer 1983) (McGarity). (Such "technologies" are not limited to literal technology, such as scrubbers; "changes in the design and operation" of the facility, or "in the way that employees perform their tasks," are also available options. *Id.*, at 163, n. 18.)

The third air pollution control scheme is the New Source Performance Standards program of Section 111. §7411. That section directs EPA to list "categories of stationary sources" that it determines "cause[], or contribute[] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." §7411(b)(1)(A). Under Section 111(b), the Agency must then promulgate for each category "Federal standards of performance for new sources," §7411(b)(1)(B). A "standard of performance" is one that

> "reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and

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> environmental impact and energy requirements) the [EPA] Administrator determines has been adequately demonstrated." §7411(a)(1).

Thus, the statute directs EPA to (1) "determine[]," taking into account various factors, the "best system of emission reduction which . . . has been adequately demonstrated," (2) ascertain the "degree of emission limitation achievable through the application" of that system, and (3) impose an emissions limit on new stationary sources that "reflects" that amount. *Ibid.*; see also 80 Fed. Reg. 64538 (2015). Generally speaking, a source may achieve that emissions cap any way it chooses; the key is that its pollution be no more than the amount "achievable through the application of the best system of emission reduction . . . adequately demonstrated," or the BSER. §7411(a)(1); see §7411(b)(5). EPA undertakes this analysis on a pollutant-by-pollutant basis, establishing different standards of performance with respect to different pollutants emitted from the same source category. See, *e.g.*, 73 Fed. Reg. 35838 (2008); 42 Fed. Reg. 22510 (1977).

Although the thrust of Section 111 focuses on emissions limits for *new* and *modified* sources—as its title indicates—the statute also authorizes regulation of certain pollutants from *existing* sources. Under Section 111(d), once EPA "has set *new* source standards addressing emissions of a particular pollutant under . . . section 111(b)," 80 Fed. Reg. 64711, it must then address emissions of that same pollutant by existing sources—but only if they are not already regulated under the NAAQS or HAP programs. §7411(d)(1). Existing power plants, for example, emit many pollutants covered by a NAAQS or HAP standard. Section 111(d) thus "operates as a gap-filler," empowering EPA to regulate harmful emissions not already controlled under the Agency's other authorities. *American Lung Assn.* v. *EPA*, 985 F. 3d 914, 932 (CADC 2021).

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Although the States set the actual rules governing existing power plants, EPA itself still retains the primary regulatory role in Section 111(d). The Agency, not the States, decides the amount of pollution reduction that must ultimately be achieved. It does so by again determining, as when setting the new source rules, "the best system of emission reduction . . . that has been adequately demonstrated for [existing covered] facilities." 40 CFR §60.22(b)(5) (2021); see also 80 Fed. Reg. 64664, and n. 1. The States then submit plans containing the emissions restrictions that they intend to adopt and enforce in order not to exceed the permissible level of pollution established by EPA. See §§60.23, 60.24; 42 U. S. C. §7411(d)(1).

Reflecting the ancillary nature of Section 111(d), EPA has used it only a handful of times since the enactment of the statute in 1970. See 80 Fed. Reg. 64703, and n. 275 (past regulations pertained to "four pollutants from five source categories"). For instance, the Agency has established emissions limits on acid mist from sulfuric acid production, 41 Fed. Reg. 48706 (1976) (identifying "fiber mist eliminator" technology as BSER); sulfide gases released by kraft pulp mills, 44 Fed. Reg. 29829 (1979) (determining BSER to be a combination of scrubbers, incineration, filtration systems, and temperature control); and emissions of various harmful gases from municipal landfills, 61 Fed. Reg. 9907 (1996) (setting BSER as use of a flare to combust the gases). It was thus only a slight overstatement for one of the architects of the 1990 amendments to the Clean Air Act to refer to Section 111(d) as an "obscure, never-used section of the law." Hearings on S. 300 et al. before the Subcommittee on Environmental Protection of the Senate Committee on Environment and Public Works, 100th Cong., 1st Sess., 13 (1987) (remarks of Sen. Durenberger).

B

Things changed in October 2015, when EPA promulgated

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two rules addressing carbon dioxide pollution from power plants—one for new plants under Section 111(b), the other for existing plants under Section 111(d). Both were premised on the Agency's earlier finding that carbon dioxide is an "air pollutant" that "may reasonably be anticipated to endanger public health or welfare" by causing climate change. 80 Fed. Reg. 64530. Carbon dioxide is not subject to a NAAQS and has not been listed as a toxic pollutant.

The first rule announced by EPA established federal carbon emissions limits for new power plants of two varieties: fossil-fuel-fired electric steam generating units (mostly coal fired) and natural-gas-fired stationary combustion turbines. *Id.*, at 64512. Following the statutory process set out above, the Agency determined the BSER for the two categories of sources. For steam generating units, for instance, EPA determined that the BSER was a combination of high-efficiency production processes and carbon capture technology. See 80 Fed. Reg. 64512. EPA then set the emissions limit based on the amount of carbon dioxide that a plant would emit with these technologies in place. *Id.*, at 64513.

The second rule was triggered by the first: Because EPA was now regulating carbon dioxide from *new* coal and gas plants, Section 111(d) required EPA to also address carbon emissions from *existing* coal and gas plants. See §7411(d)(1). It did so through what it called the Clean Power Plan rule.

In that rule, EPA established "final emission guidelines for states to follow in developing plans" to regulate existing power plants within their borders. *Id.*, at 64662. To arrive at the guideline limits, EPA did the same thing it does when imposing federal regulations on new sources: It identified the BSER.

The BSER that the Agency selected for existing coal-fired power plants, however, was quite different from the BSER it had chosen for new sources. The BSER for existing plants included three types of measures, which the Agency called

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"building blocks." *Id.*, at 64667. The first building block was "heat rate improvements" at coal-fired plants—essentially practices such plants could undertake to burn coal more efficiently. *Id.*, at 64727. But such improvements, EPA stated, would "lead to only small emission reductions," because coal-fired power plants were already operating near optimum efficiency. *Ibid.* On the Agency's view, "much larger emission reductions [were] needed from [coal-fired plants] to address climate change." *Ibid.*

So the Agency included two additional building blocks in its BSER, both of which involve what it called "generation shifting from higher-emitting to lower-emitting" producers of electricity. *Id.*, at 64728. Building block two was a shift in electricity production from existing coal-fired power plants to natural-gas-fired plants. *Ibid.* Because natural gas plants produce "typically less than half as much" carbon dioxide per unit of electricity created as coal-fired plants, the Agency explained, "this generation shift [would] reduce[] CO_2 emissions." *Ibid.* Building block three worked the same way, except that the shift was from both coal- and gas-fired plants to "new low- or zero-carbon generating capacity," mainly wind and solar. *Id.*, at 64729, 64748. "Most of the CO_2 controls" in the rule came from the application of building blocks two and three. *Id.*, at 64728.

The Agency identified three ways in which a regulated plant operator could implement a shift in generation to cleaner sources. *Id.*, at 64731. First, an operator could simply reduce the regulated plant's own production of electricity. Second, it could build a new natural gas plant, wind farm, or solar installation, or invest in someone else's existing facility and then increase generation there. *Ibid.* Finally, operators could purchase emission allowances or credits as part of a cap-and-trade regime. *Id.*, at 64731–64732. Under such a scheme, sources that achieve a reduction in their emissions can sell a credit representing the value of that reduction to others, who are able to count it

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toward their own applicable emissions caps.

EPA explained that taking any of these steps would implement a sector-wide shift in electricity production from coal to natural gas and renewables. *Id.*, at 64731. Given the integrated nature of the power grid, "adding electricity to the grid from one generator will result in the instantaneous reduction in generation from other generators," and "reductions in generation from one generator lead to the instantaneous increase in generation" by others. *Id.*, at 64769. So coal plants, whether by reducing their own production, subsidizing an increase in production by cleaner sources, or both, would cause a shift toward wind, solar, and natural gas.

Having decided that the "best system of emission reduction . . . adequately demonstrated" was one that would reduce carbon pollution mostly by moving production to cleaner sources, EPA then set about determining "the degree of emission limitation achievable through the application" of that system. 42 U. S. C. §7411(a)(1). The Agency recognized that—given the nature of generation shifting—it could choose from "a wide range of potential stringencies for the BSER." 80 Fed. Reg. 64730. Put differently, in translating the BSER into an operational emissions limit, EPA could choose whether to require anything from a little generation shifting to a great deal. The Agency settled on what it regarded as a "reasonable" amount of shift, which it based on modeling of how much more electricity both natural gas and renewable sources could supply without causing undue cost increases or reducing the overall power supply. *Id.*, at 64797–64811. Based on these changes, EPA projected that by 2030, it would be feasible to have coal provide 27% of national electricity generation, down from 38% in 2014. *Id.*, at 64665, 64694; see Dept. of Energy, U. S. Energy Information Admin., Monthly Energy Review (May 2015), Electricity Net Generation: Electric Power Sector, p. 106 (Table 7.2b).

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From these significant projected reductions in generation, EPA developed a series of complex equations to "determine the emission performance rates" that States would be required to implement. 80 Fed. Reg. 64815. The calculations resulted in numerical emissions ceilings so strict that no existing coal plant would have been able to achieve them without engaging in one of the three means of shifting generation described above. Indeed, the emissions limit the Clean Power Plan established for existing power plants was actually *stricter* than the cap imposed by the simultaneously published standards for *new* plants. Compare *id.*, at 64742, with *id.*, at 64513.

The point, after all, was to compel the transfer of power generating capacity from existing sources to wind and solar. The White House stated that the Clean Power Plan would "drive a[n] . . . aggressive transformation in the domestic energy industry." White House Fact Sheet, App. in *American Lung Assn.* v. *EPA*, No. 19–1140 etc. (CADC), p. 2076. EPA's own modeling concluded that the rule would entail billions of dollars in compliance costs (to be paid in the form of higher energy prices), require the retirement of dozens of coal-fired plants, and eliminate tens of thousands of jobs across various sectors. EPA, Regulatory Impact Analysis for the Clean Power Plan Final Rule 3–22, 3–30, 3–33, 6–24, 6–25 (2015). The Energy Information Administration reached similar conclusions, projecting that the rule would cause retail electricity prices to remain persistently 10% higher in many States, and would reduce GDP by at least a trillion 2009 dollars by 2040. Dept. of Energy, Analysis of the Impacts of the Clean Power Plan 21, 63–64 (May 2015).

C

These projections were never tested, because the Clean Power Plan never went into effect. The same day that EPA promulgated the rule, dozens of parties (including 27 States) petitioned for review in the D. C. Circuit. After that

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court declined to enter a stay of the rule, the challengers sought the same relief from this Court. We granted a stay, preventing the rule from taking effect. *West Virginia* v. *EPA*, 577 U. S. 1126 (2016). The Court of Appeals later heard argument on the merits en banc. But before it could issue a decision, there was a change in Presidential administrations. The new administration requested that the litigation be held in abeyance so that EPA could reconsider the Clean Power Plan. The D. C. Circuit obliged, and later dismissed the petitions for review as moot.

EPA eventually repealed the rule in 2019, concluding that the Clean Power Plan had been "in excess of its statutory authority" under Section 111(d). 84 Fed. Reg. 32523 (2019). Specifically, the Agency concluded that generation shifting should not have been considered as part of the BSER. The Agency interpreted Section 111 as "limit[ing] the BSER to those systems that can be put into operation *at* a building, structure, facility, or installation," such as "add-on controls" and "inherently lower-emitting processes/practices/designs." *Id.*, at 32524. It then explained that the Clean Power Plan, rather than setting the standard "based on the application of equipment and practices at the level of an individual facility," had instead based it on "a shift in the energy generation mix at the grid level," *id.*, at 32523—not the sort of measure that has "a potential for application to an individual source." *Id.*, at 32524.

The Agency determined that "the interpretative question raised" by the Clean Power Plan—"*i.e.*, whether a 'system of emission reduction' can consist of generation-shifting measures"—fell under the "major question doctrine." *Id.*, at 32529. Under that doctrine, EPA explained, courts "expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance." *Ibid.* (quoting *Utility Air Regulatory Group* v. *EPA*, 573 U. S. 302, 324 (2014) (internal quotation marks omitted)). The Agency concluded that the Clean Power Plan was

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such a decision, for a number of reasons. Its "generation-shifting scheme was projected to have billions of dollars of impact." 84 Fed. Reg. 32529. "[N]o section 111 rule of the scores issued ha[d] ever been based on generation shifting." *Ibid.* And that novel reading of the statute would empower EPA "to order the wholesale restructuring of any industrial sector" based only on its discretionary assessment of "such factors as 'cost' and 'feasibility.'" *Ibid.*

EPA argued that under the major questions doctrine, a clear statement was necessary to conclude that Congress intended to delegate authority "of this breadth to regulate a fundamental sector of the economy." *Ibid.* It found none. "Indeed," it concluded, given the text and structure of the statute, "Congress has directly spoken to this precise question and precluded" the use of measures such as generation shifting. *Ibid.*

In the same rulemaking, the Agency replaced the Clean Power Plan by promulgating a different Section 111(d) regulation, known as the Affordable Clean Energy (ACE) Rule. *Id.*, at 32532. Based on its view of what measures may permissibly make up the BSER, EPA determined that the best system would be akin to building block one of the Clean Power Plan: a combination of equipment upgrades and operating practices that would improve facilities' heat rates. *Id.*, at 32522, 32537. The ACE Rule determined that the application of its BSER measures would result in only small reductions in carbon dioxide emissions. *Id.*, at 32561.

D

A number of States and private parties immediately filed petitions for review in the D. C. Circuit, challenging EPA's repeal of the Clean Power Plan and its enactment of the replacement ACE Rule. Other States and private entities—including petitioners here West Virginia, North Dakota, Westmoreland Mining Holdings LLC, and The North American Coal Corporation (NACC)—intervened to defend both

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actions.

The Court of Appeals consolidated all 12 petitions for review into one case. It then held that EPA's "repeal of the Clean Power Plan rested critically on a mistaken reading of the Clean Air Act"—namely, that generation shifting cannot be a "system of emission reduction" under Section 111. 985 F. 3d, at 995. To the contrary, the court concluded, the statute could reasonably be read to encompass generation shifting. As part of that analysis, the Court of Appeals concluded that the major questions doctrine did not apply, and thus rejected the need for a clear statement of congressional intent to delegate such power to EPA. *Id.*, at 959–968. Having found that EPA misunderstood the scope of its authority under the Clean Air Act, the Court vacated the Agency's repeal of the Clean Power Plan and remanded to the Agency for further consideration. *Id.*, at 995. It also vacated and remanded the replacement rule, the ACE Rule, for the same reason. *Ibid.*

The court's decision, handed down on January 19, 2021, was quickly followed by another change in Presidential administrations. One month later, EPA moved the Court of Appeals to partially stay the issuance of its mandate as it pertained to the Clean Power Plan. The Agency did so to ensure that the Clean Power Plan would not immediately go back into effect. Respondents' Motion for a Partial Stay of Issuance of the Mandate in *American Lung Assn.* v. *EPA*, No. 19–1140 etc. (CADC), p. 4. EPA believed that such a result would not make sense while it was in the process of considering whether to promulgate a new Section 111(d) rule. *Ibid.* No party opposed the motion, and the court accordingly stayed its vacatur of the Agency's repeal of the Clean Power Plan.

Westmoreland, NACC, and the States defending the repeal of the Clean Power Plan all filed petitions for certiorari. We granted the petitions and consolidated the cases. 595 U. S. ___ (2021).

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II

We first consider the Government's contention that no petitioner has Article III standing to seek our review.

Although most disputes over standing concern whether a plaintiff has satisfied the requirement when filing suit, "Article III demands that an actual controversy persist throughout all stages of litigation." *Hollingsworth* v. *Perry*, 570 U. S. 693, 705 (2013) (internal quotation marks omitted). The requirement of standing "must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance." *Arizonans for Official English* v. *Arizona*, 520 U. S. 43, 64 (1997). In considering a litigant's standing to appeal, the question is whether it has experienced an injury "fairly traceable to the *judgment below*." *Food Marketing Institute* v. *Argus Leader Media*, 588 U. S. ___, ___ (2019) (slip op., at 4) (emphasis added; internal quotation marks omitted). If so, and a "favorable ruling" from the appellate court "would redress [that] injury," then the appellant has a cognizable Article III stake. *Ibid.*

Here, it is apparent that at least one group of petitioners—the state petitioners—are injured by the Court of Appeals' judgment. That judgment vacated "the ACE rule *and* its embedded repeal of the Clean Power Plan," 985 F. 3d, at 995 (emphasis added), and accordingly purports to bring the Clean Power Plan back into legal effect. Thus, to the extent the Clean Power Plan harms the States, the D. C. Circuit's judgment inflicts the same injury. And there can be "little question" that the rule does injure the States, since they are "the object of" its requirement that they more stringently regulate power plant emissions within their borders. *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555, 561–562 (1992).

The Government counters that "agency and judicial actions" subsequent to the court's entry of judgment have "eliminated any . . . possibility" of injury. Brief for Federal

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Respondents 16. First, after the decision, EPA informed the Court of Appeals that it does not intend to enforce the Clean Power Plan because it has decided to promulgate a new Section 111(d) rule. Second, on EPA's request, the lower court stayed the part of its judgment that vacated the repeal, pending that new rulemaking. "These circumstances," says the Government, "have *mooted* the prior dispute as to the CPP Repeal Rule's legality." *Id.*, at 17 (emphasis added).

That Freudian slip, however, reveals the basic flaw in the Government's argument: It is the doctrine of *mootness*, not standing, that addresses whether "an intervening circumstance [has] deprive[d] the plaintiff of a personal stake in the outcome of the lawsuit." *Genesis HealthCare Corp.* v. *Symczyk*, 569 U. S. 66, 72 (2013) (internal quotation marks omitted); see also *Friends of the Earth, Inc.* v. *Laidlaw Environmental Services (TOC), Inc.*, 528 U. S. 167, 189–192 (2000). The distinction matters because the Government, not petitioners, bears the burden to establish that a once-live case has become moot. *Id.*, at 189; *Adarand Constructors, Inc.* v. *Slater*, 528 U. S. 216, 222 (2000) (*per curiam*).

That burden is "heavy" where, as here, "[t]he only conceivable basis for a finding of mootness in th[e] case is [the respondent's] voluntary conduct." *Friends of the Earth*, 528 U. S., at 189. Although the Government briefly argues that the lower court's stay of its mandate extinguished the controversy, it cites no authority for that proposition, and it does not make sense: Lower courts frequently stay their mandates when notified that the losing party intends to seek our certiorari review. So the Government's mootness argument boils down to its representation that EPA has no intention of enforcing the Clean Power Plan prior to promulgating a new Section 111(d) rule.

But "voluntary cessation does not moot a case" unless it is "absolutely clear that the allegedly wrongful behavior

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could not reasonably be expected to recur." *Parents Involved in Community Schools* v. *Seattle School Dist. No. 1*, 551 U. S. 701, 719 (2007). Here the Government "nowhere suggests that if this litigation is resolved in its favor it will not" reimpose emissions limits predicated on generation shifting; indeed, it "vigorously defends" the legality of such an approach. *Ibid.* We do not dismiss a case as moot in such circumstances. See *City of Mesquite* v. *Aladdin's Castle, Inc.*, 455 U. S. 283, 288–289 (1982). The case thus remains justiciable, and we may turn to the merits.

III

A

In devising emissions limits for power plants, EPA first "determines" the "best system of emission reduction" that—taking into account cost, health, and other factors—it finds "has been adequately demonstrated." 42 U. S. C. §7411(a)(1). The Agency then quantifies "the degree of emission limitation achievable" if that best system were applied to the covered source. *Ibid.*; see also 80 Fed. Reg. 64719. The BSER, therefore, "is the central determination that the EPA must make in formulating [its emission] guidelines" under Section 111. *Id.*, at 64723. The issue here is whether restructuring the Nation's overall mix of electricity generation, to transition from 38% coal to 27% coal by 2030, can be the "best system of emission reduction" within the meaning of Section 111.

"It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Davis* v. *Michigan Dept. of Treasury*, 489 U. S. 803, 809 (1989). Where the statute at issue is one that confers authority upon an administrative agency, that inquiry must be "shaped, at least in some measure, by the nature of the question presented"—whether Congress in fact meant to confer the power the agency has asserted. *FDA* v. *Brown &*

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Williamson Tobacco Corp., 529 U. S. 120, 159 (2000). In the ordinary case, that context has no great effect on the appropriate analysis. Nonetheless, our precedent teaches that there are "extraordinary cases" that call for a different approach—cases in which the "history and the breadth of the authority that [the agency] has asserted," and the "economic and political significance" of that assertion, provide a "reason to hesitate before concluding that Congress" meant to confer such authority. *Id.*, at 159–160.

Such cases have arisen from all corners of the administrative state. In *Brown & Williamson*, for instance, the Food and Drug Administration claimed that its authority over "drugs" and "devices" included the power to regulate, and even ban, tobacco products. *Id.*, at 126–127. We rejected that "expansive construction of the statute," concluding that "Congress could not have intended to delegate" such a sweeping and consequential authority "in so cryptic a fashion." *Id.*, at 160. In *Alabama Assn. of Realtors* v. *Department of Health and Human Servs.*, 594 U. S. ___, ___ (2021) (*per curiam*) (slip op., at 3), we concluded that the Centers for Disease Control and Prevention could not, under its authority to adopt measures "necessary to prevent the . . . spread of" disease, institute a nationwide eviction moratorium in response to the COVID–19 pandemic. We found the statute's language a "wafer-thin reed" on which to rest such a measure, given "the sheer scope of the CDC's claimed authority," its "unprecedented" nature, and the fact that Congress had failed to extend the moratorium after previously having done so. *Id.*, at ___–___ (slip op., at 6–8).

Our decision in *Utility Air* addressed another question regarding EPA's authority—namely, whether EPA could construe the term "air pollutant," in a specific provision of the Clean Air Act, to cover greenhouse gases. 573 U. S., at 310. Despite its textual plausibility, we noted that the Agency's interpretation would have given it permitting authority over millions of small sources, such as hotels and office

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buildings, that had never before been subject to such requirements. *Id.*, at 310, 324. We declined to uphold EPA's claim of "unheralded" regulatory power over "a significant portion of the American economy." *Id.*, at 324. In *Gonzales* v. *Oregon*, 546 U. S. 243 (2006), we confronted the Attorney General's assertion that he could rescind the license of any physician who prescribed a controlled substance for assisted suicide, even in a State where such action was legal. The Attorney General argued that this came within his statutory power to revoke licenses where he found them "inconsistent with the public interest," 21 U. S. C. §823(f). We considered the "idea that Congress gave [him] such broad and unusual authority through an implicit delegation . . . not sustainable." 546 U. S., at 267. Similar considerations informed our recent decision invalidating the Occupational Safety and Health Administration's mandate that "84 million Americans . . . either obtain a COVID–19 vaccine or undergo weekly medical testing at their own expense." *National Federation of Independent Business* v. *Occupational Safety and Health Administration*, 595 U. S. ___, ___ (2022) (*per curiam*) (slip op., at 5). We found it "telling that OSHA, in its half century of existence," had never relied on its authority to regulate occupational hazards to impose such a remarkable measure. *Id.*, at ___ (slip op., at 8).

All of these regulatory assertions had a colorable textual basis. And yet, in each case, given the various circumstances, "common sense as to the manner in which Congress [would have been] likely to delegate" such power to the agency at issue, *Brown & Williamson*, 529 U. S., at 133, made it very unlikely that Congress had actually done so. Extraordinary grants of regulatory authority are rarely accomplished through "modest words," "vague terms," or "subtle device[s]." *Whitman*, 531 U. S., at 468. Nor does Congress typically use oblique or elliptical language to empower an agency to make a "radical or fundamental change" to a statutory scheme. *MCI Telecommunications Corp.* v.

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American Telephone & Telegraph Co., 512 U. S. 218, 229 (1994). Agencies have only those powers given to them by Congress, and "enabling legislation" is generally not an "open book to which the agency [may] add pages and change the plot line." E. Gellhorn & P. Verkuil, Controlling *Chevron*-Based Delegations, 20 Cardozo L. Rev. 989, 1011 (1999). We presume that "Congress intends to make major policy decisions itself, not leave those decisions to agencies." *United States Telecom Assn.* v. *FCC*, 855 F. 3d 381, 419 (CADC 2017) (Kavanaugh, J., dissenting from denial of rehearing en banc).

Thus, in certain extraordinary cases, both separation of powers principles and a practical understanding of legislative intent make us "reluctant to read into ambiguous statutory text" the delegation claimed to be lurking there. *Utility Air*, 573 U. S., at 324. To convince us otherwise, something more than a merely plausible textual basis for the agency action is necessary. The agency instead must point to "clear congressional authorization" for the power it claims. *Ibid.*

The dissent criticizes us for "announc[ing] the arrival" of this major questions doctrine, and argues that each of the decisions just cited simply followed our "ordinary method" of "normal statutory interpretation," *post,* at 13, 15 (opinion of KAGAN, J.). But in what the dissent calls the "key case" in this area, *Brown & Williamson*, *post,* at 15, the Court could not have been clearer: "In extraordinary cases . . . there may be reason to hesitate" before accepting a reading of a statute that would, under more "ordinary" circumstances, be upheld. 529 U. S., at 159. Or, as we put it more recently, we "typically greet" assertions of "extravagant statutory power over the national economy" with "skepticism." *Utility Air*, 573 U. S., at 324. The dissent attempts to fit the analysis in these cases within routine statutory interpretation, but the bottom line—a requirement of "clear

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congressional authorization," *ibid.*—confirms that the approach under the major questions doctrine is distinct.

As for the major questions doctrine "label[]," *post,* at 13, it took hold because it refers to an identifiable body of law that has developed over a series of significant cases all addressing a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted. Scholars and jurists have recognized the common threads between those decisions. So have we. See *Utility Air*, 573 U. S., at 324 (citing *Brown & Williamson* and *MCI*); *King* v. *Burwell*, 576 U. S. 473, 486 (2015) (citing *Utility Air*, *Brown & Williamson*, and *Gonzales*).

B

Under our precedents, this is a major questions case. In arguing that Section 111(d) empowers it to substantially restructure the American energy market, EPA "claim[ed] to discover in a long-extant statute an unheralded power" representing a "transformative expansion in [its] regulatory authority." *Utility Air*, 573 U. S., at 324. It located that newfound power in the vague language of an "ancillary provision[]" of the Act, *Whitman*, 531 U. S., at 468, one that was designed to function as a gap filler and had rarely been used in the preceding decades. And the Agency's discovery allowed it to adopt a regulatory program that Congress had conspicuously and repeatedly declined to enact itself. *Brown & Williamson*, 529 U. S., at 159–160; *Gonzales*, 546 U. S., at 267–268; *Alabama Assn.*, 594 U. S., at ___, ___ (slip op., at 2, 8). Given these circumstances, there is every reason to "hesitate before concluding that Congress" meant to confer on EPA the authority it claims under Section 111(d). *Brown & Williamson*, 529 U. S., at 159–160.

Prior to 2015, EPA had always set emissions limits under Section 111 based on the application of measures that would reduce pollution by causing the regulated source to

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operate more cleanly. See, *e.g.*, 41 Fed. Reg. 48706 (requiring "degree of control achievable through the application of fiber mist eliminators"); see also *supra*, at 6. It had never devised a cap by looking to a "system" that would reduce pollution simply by "shifting" polluting activity "from dirtier to cleaner sources." 80 Fed. Reg. 64726; see *id.*, at 64738 ("[O]ur traditional interpretation . . . has allowed regulated entities to produce as much of a particular good as they desire provided that they do so through an appropriately clean (or low-emitting) process."). And as Justice Frankfurter has noted, "just as established practice may shed light on the extent of power conveyed by general statutory language, so the want of assertion of power by those who presumably would be alert to exercise it, is equally significant in determining whether such power was actually conferred." *FTC* v. *Bunte Brothers, Inc.*, 312 U. S. 349, 352 (1941).

The Government quibbles with this description of the history of Section 111(d), pointing to one rule that it says relied upon a cap-and-trade mechanism to reduce emissions. See 70 Fed. Reg. 28616 (2005) (Mercury Rule). The legality of that choice was controversial at the time and was never addressed by a court. See *New Jersey* v. *EPA*, 517 F. 3d 574 (CADC 2008) (vacating on other grounds). Even assuming the Rule was valid, though, it still does not help the Government. In that regulation, EPA set the actual "emission cap"—*i.e.*, the limit on emissions that sources would be required to meet—"based on the level of [mercury] emissions reductions that w[ould] be achievable by" the use of "technologies [that could be] installed and operational on a nationwide basis" in the relevant timeframe—namely, wet scrubbers. 70 Fed. Reg. 28620–28621. In other words, EPA set the cap based on the application of particular controls, and regulated sources could have complied by installing them. By contrast, and by design, there is no control a coal

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plant operator can deploy to attain the emissions limits established by the Clean Power Plan. See *supra*, at 10. The Mercury Rule, therefore, is no precedent for the Clean Power Plan. To the contrary, it was one more entry in an unbroken list of prior Section 111 rules that devised the enforceable emissions limit by determining the best control mechanisms available for the source.[1]

This consistent understanding of "system[s] of emission reduction" tracked the seemingly universal view, as stated by EPA in its inaugural Section 111(d) rulemaking, that "Congress intended a technology-based approach" to regulation in that Section. 40 Fed. Reg. 53343 (1975); see *id.*, at 53341 ("degree of control to be reflected in EPA's emission guidelines" will be based on "application of best adequately demonstrated control technology").[2] A technology-based standard, recall, is one that focuses on improving the emissions performance of individual sources. EPA "commonly

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[1] The dissent cites other ostensible precedents, see *post*, at 25–26, but they are also inapposite. A few allowed cap-and-trade or similar averaging measures as compliance mechanisms, like the Mercury Rule. See, *e.g.*, 60 Fed. Reg. 65402 (1995). The others were not Section 111 rules.

[2] See McGarity 165 (EPA promulgates "technology-based new source performance standards that require the implementation of the 'best available demonstrated' technology"); P. McCubbin, The Risk in Technology-Based Standards, 16 Duke Env. L. & Pol'y Forum 1, 46, n. 180 (2003) (Section 111 standards "are another set of technology-based standards"); W. Wagner, The Triumph of Technology-Based Standards, 2000 U. Ill. L. Rev 83, 84, n. 4 ("Technology-based standards made their initial appearance" in "Section 111 of the Clean Air Act," which "requires the EPA to set technology-based emission limitations").

The dissent points to a 1977 amendment to Section 111 as evidence that the 1970 Congress did not intend for EPA to establish this sort of source-specific standard. *Post*, at 10–11. But it is clear that the 1977 amendment was merely intended to prohibit power plants from adopting one specific kind of at-the-source measure—a switch from burning high-sulfur coal to low-sulfur coal—and was not intended or understood to change the basic, source-focused regulatory approach. See *Wisconsin Elec. Power Co.* v. *Reilly*, 893 F. 2d 901, 919 (CA8 1990) (explaining the history); B. Ackerman & W. Hassler, Clean Coal/Dirty Air (1981) (same).

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referred to" the "level of control" required as a "best demonstrated technology (BDT)" standard, 73 Fed. Reg. 34073, and consistently applied it as such. *E.g.*, 61 Fed. Reg. 9907 (declaring "BDT" to be "a well-designed and well-operated gas collection system and . . . a control device capable of reducing [harmful gases] in the collected gas by 98 weight-percent.").

Indeed, EPA nodded to this history in the Clean Power Plan itself, describing the sort of "systems of emission reduction" it had always before selected—"efficiency improvements, fuel-switching," and "add-on controls"—as "more traditional air pollution control measures." 80 Fed. Reg. 64784. The Agency noted that it had "considered" such measures as potential systems of emission reduction for carbon dioxide, *ibid.*, including a measure it ultimately adopted as a "component" of the BSER, namely, heat rate improvements. *Id.*, at 64727.

But, the Agency explained, in order to "control[] CO_2 from affected [plants] at levels . . . necessary to mitigate the dangers presented by climate change," it could not base the emissions limit on "measures that improve efficiency at the power plants." *Id.*, at 64728. "The quantity of emissions reductions resulting from the application of these measures" would have been "too small." *Id.*, at 64727. Instead, to attain the necessary "critical CO_2 reductions," EPA adopted what it called a "broader, forward-thinking approach to the design" of Section 111 regulations. *Id.*, at 64703. Rather than focus on improving the performance of individual sources, it would "improve the *overall power system* by lowering the carbon intensity of power generation." *Ibid.* (emphasis added). And it would do that by forcing a shift throughout the power grid from one type of energy source to another. In the words of the then-EPA Administrator, the rule was "not about pollution control" so much as it was "an investment opportunity" for States, especially "investments in renewables and clean energy." Oversight

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Hearing on EPA's Proposed Carbon Pollution Standards for Existing Power Plants before the Senate Committee on Environment and Public Works, 113th Cong., 2d Sess., p. 33 (2014).

This view of EPA's authority was not only unprecedented; it also effected a "fundamental revision of the statute, changing it from [one sort of] scheme of . . . regulation" into an entirely different kind. *MCI*, 512 U. S., at 231. Under the Agency's prior view of Section 111, its role was limited to ensuring the efficient pollution performance of each individual regulated source. Under that paradigm, if a source was already operating at that level, there was nothing more for EPA to do. Under its newly "discover[ed]" authority, *Utility Air*, 573 U. S., at 324, however, EPA can demand much greater reductions in emissions based on a very different kind of policy judgment: that it would be "best" if coal made up a much smaller share of national electricity generation. And on this view of EPA's authority, it could go further, perhaps forcing coal plants to "shift" away virtually all of their generation—*i.e.*, to cease making power altogether.[3]

The Government attempts to downplay the magnitude of this "unprecedented power over American industry." *Industrial Union Dept., AFL–CIO* v. *American Petroleum Institute*, 448 U. S. 607, 645 (1980) (plurality opinion). The amount of generation shifting ordered, it argues, must be "adequately demonstrated" and "best" in light of the statu-

[3] The dissent suggests that EPA could bring about the same result by, for example, simply requiring coal plants to become natural gas plants, and that this would fit within the prior regulatory approach of efficiency-improving, at-the-source measures. *Post*, at 24. Of course, EPA has never ordered anything remotely like that, and we doubt it could. Section 111(d) empowers EPA to guide States in "establish[ing] standards of performance" for "existing source[s]," §7411(d)(1), not to direct existing sources to effectively cease to exist.

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tory factors of "cost," "nonair quality health and environmental impact," and "energy requirements." 42 U. S. C. §7411(a)(1). EPA therefore must limit the magnitude of generation shift it demands to a level that will not be "exorbitantly costly" or "threaten the reliability of the grid." Brief for Federal Respondents 42.

But this argument does not so much *limit* the breadth of the Government's claimed authority as *reveal* it. On EPA's view of Section 111(d), Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in deciding how Americans will get their energy. EPA decides, for instance, how much of a switch from coal to natural gas is practically feasible by 2020, 2025, and 2030 before the grid collapses, and how high energy prices can go as a result before they become unreasonably "exorbitant."

There is little reason to think Congress assigned such decisions to the Agency. For one thing, as EPA itself admitted when requesting special funding, "Understand[ing] and project[ing] system-wide . . . trends in areas such as electricity transmission, distribution, and storage" requires "technical and policy expertise *not* traditionally needed in EPA regulatory development." EPA, Fiscal Year 2016: Justification of Appropriation Estimates for the Committee on Appropriations 213 (2015) (emphasis added). "When [an] agency has no comparative expertise" in making certain policy judgments, we have said, "Congress presumably would not" task it with doing so. *Kisor* v. *Wilkie*, 588 U. S. ___, ___ (2019) (slip op., at 17); see also *Gonzales*, 546 U. S., at 266–267.

We also find it "highly unlikely that Congress would leave" to "agency discretion" the decision of how much coal-based generation there should be over the coming decades. *MCI*, 512 U. S., at 231; see also *Brown & Williamson*, 529 U. S., at 160 ("We are confident that Congress could not have intended to delegate a decision of such economic and

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political significance to an agency in so cryptic a fashion."). The basic and consequential tradeoffs involved in such a choice are ones that Congress would likely have intended for itself. See W. Eskridge, Interpreting Law: A Primer on How To Read Statutes and the Constitution 288 (2016) ("Even if Congress has delegated an agency general rulemaking or adjudicatory power, judges presume that Congress does not delegate its authority to settle or amend major social and economic policy decisions."). Congress certainly has not conferred a like authority upon EPA anywhere else in the Clean Air Act. The last place one would expect to find it is in the previously little-used backwater of Section 111(d).

The dissent contends that there is nothing surprising about EPA dictating the optimal mix of energy sources nationwide, since that sort of mandate will reduce air pollution from power plants, which is EPA's bread and butter. *Post*, at 20–22. But that does not follow. Forbidding evictions may slow the spread of disease, but the CDC's ordering such a measure certainly "raise[s] an eyebrow." *Post*, at 18. We would not expect the Department of Homeland Security to make trade or foreign policy even though doing so could decrease illegal immigration. And no one would consider generation shifting a "tool" in OSHA's "toolbox," *post*, at 21, even though reducing generation at coal plants would reduce workplace illness and injury from coal dust.

The dissent also cites our decision in *American Elec. Power Co.* v. *Connecticut*, 564 U. S. 410 (2011). *Post*, at 20. The question there, however, was whether Congress wanted district court judges to decide, under unwritten federal nuisance law, "whether and how to regulate carbon-dioxide emissions from powerplants." 564 U. S., at 426. We answered no, given the existence of Section 111(d). But we said nothing about the ways in which Congress intended EPA to exercise its power under that provision. And it is doubtful we had in mind that it would claim the authority

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to require a large shift from coal to natural gas, wind, and solar. After all, EPA had never regulated in that manner, despite having issued many prior rules governing power plants under Section 111. See, *e.g.*, 71 Fed. Reg. 9866 (2006); 70 Fed. Reg. 28616; 44 Fed. Reg. 33580; 36 Fed. Reg. 24875 (1973).[4]

Finally, we cannot ignore that the regulatory writ EPA newly uncovered conveniently enabled it to enact a program that, long after the dangers posed by greenhouse gas emissions "had become well known, Congress considered and rejected" multiple times. *Brown & Williamson*, 529 U. S., at 144; see also *Alabama Assn.*, 594 U. S., at ___ (slip op., at 2); *Bunte Brothers*, 312 U. S., at 352 (lack of authority not previously exercised "reinforced by [agency's] unsuccessful attempt . . . to secure from Congress an express grant of [the challenged] authority"). At bottom, the Clean Power Plan essentially adopted a cap-and-trade scheme, or set of state cap-and-trade schemes, for carbon. See 80 Fed. Reg. 64734 ("Emissions trading is . . . an integral part of our BSER analysis."). Congress, however, has consistently rejected proposals to amend the Clean Air Act to create such a program. See, *e.g.*, American Clean Energy and Security

[4] According to the dissent, "EPA is always controlling the mix of energy sources" under Section 111 because all of the Agency's rules impose some costs on regulated plants, and therefore (all else equal) cause those plants to lose some share of the electricity market. *Post,* at 22. But there is an obvious difference between (1) issuing a rule that may end up causing an incidental loss of coal's market share, and (2) simply announcing what the market share of coal, natural gas, wind, and solar must be, and then requiring plants to reduce operations or subsidize their competitors to get there. No one has ever thought that the Clean Power Plan was just business as usual. See *American Lung Assn.* v. *EPA*, 985 F. 3d 914, 1000 (CADC 2021) (Walker, J., dissenting) ("Leaders of the environmental movement considered the rule 'groundbreaking,' called its announcement 'historic,' and labeled it a 'critically important catalyst.'" (footnotes omitted)).

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Act of 2009, H. R. 2454, 111th Cong., 1st Sess.; Clean Energy Jobs and American Power Act, S. 1733, 111th Cong., 1st Sess. (2009). It has also declined to enact similar measures, such as a carbon tax. See, *e.g.*, Climate Protection Act of 2013, S. 332, 113th Cong., 1st Sess.; Save our Climate Act of 2011, H. R. 3242, 112th Cong., 1st Sess. "The importance of the issue," along with the fact that the same basic scheme EPA adopted "has been the subject of an earnest and profound debate across the country, . . . makes the oblique form of the claimed delegation all the more suspect." *Gonzales*, 546 U. S., at 267–268 (internal quotation marks omitted).

C

Given these circumstances, our precedent counsels skepticism toward EPA's claim that Section 111 empowers it to devise carbon emissions caps based on a generation shifting approach. To overcome that skepticism, the Government must—under the major questions doctrine—point to "clear congressional authorization" to regulate in that manner. *Utility Air*, 573 U. S., at 324.

All the Government can offer, however, is the Agency's authority to establish emissions caps at a level reflecting "the application of the best system of emission reduction . . . adequately demonstrated." 42 U. S. C. §7411(a)(1). As a matter of "definitional possibilities," *FCC* v. *AT&T Inc.*, 562 U. S. 397, 407 (2011), generation shifting can be described as a "system"—"an aggregation or assemblage of objects united by some form of regular interaction," Brief for Federal Respondents 31—capable of reducing emissions. But of course almost anything could constitute such a "system"; shorn of all context, the word is an empty vessel. Such a vague statutory grant is not close to the sort of clear authorization required by our precedents.

The Government, echoed by the other respondents, looks to other provisions of the Clean Air Act for support. It

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points out that the Act elsewhere uses the word "system" or "similar words" to describe cap-and-trade schemes or other sector-wide mechanisms for reducing pollution. *Ibid.* The Acid Rain program set out in Title IV of the Act establishes a cap-and-trade scheme for reducing sulfur dioxide emissions, which the statute refers to as an "emission allocation and transfer *system*." §7651(b) (emphasis added). And Section 110 of the NAAQS program specifies that "marketable permits" and "auctions of emissions rights" qualify as "control measures, means, or techniques" that States may adopt in their state implementation plans in order "to meet the applicable requirements of" a NAAQS. §7410(a)(2)(A). If the word "system" or similar words like "technique" or "means" can encompass cap-and-trade, the Government maintains, why not in Section 111?

But just because a cap-and-trade "system" can be used to reduce emissions does not mean that it is the kind of "system of emission reduction" referred to in Section 111. Indeed, the Government's examples demonstrate why it is not.

First, unlike Section 111, the Acid Rain and NAAQS programs contemplate trading systems as a means of *complying* with an *already established emissions limit*, set either directly by Congress (as with Acid Rain, see 42 U. S. C. §7651c) or by reference to the safe concentration of the pollutant in the ambient air (as with the NAAQS). In Section 111, by contrast, it is EPA's job to come up with the cap itself: the "numerical limit on emissions" that States must apply to each source. 80 Fed. Reg. 64768. We doubt that Congress directed the Agency to set an emissions cap at the level "which reflects the degree of emission limitation achievable through the application of [a cap-and-trade] system," §7411(a)(1), for that degree is indeterminate. It is one thing for Congress to authorize regulated sources to use trading to comply with a preset cap, or a cap that must be based on some scientific, objective criterion, such as the

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NAAQS. It is quite another to simply authorize EPA to set the cap itself wherever the Agency sees fit.

Second, Congress added the above authorizations for the use of emissions trading programs in 1990, simultaneous with amending Section 111 to its present form. At the time, cap-and-trade was a novel and highly touted concept. The Acid Rain program was "the nation's first-ever emissions trading program." L. Heinzerling & R. Steinzor, A Perfect Storm: Mercury and the Bush Administration, 34 Env. L. Rep. 10297, 10309 (2004). And Congress went out of its way to amend the NAAQS statute to make absolutely clear that the "measures, means, [and] techniques" States could use to meet the NAAQS included cap-and-trade. §7410(a)(2)(A). Yet "not a peep was heard from Congress about the possibility that a trading regime could be installed under §111." *Id.*, at 10309.

Finally, the Government notes that other parts of the Clean Air Act, past and present, have "explicitly limited the permissible components of a particular 'system'" of emission reduction in some regard. Brief for Federal Respondents 32. For instance, a separate section of the statute empowers EPA to require the "degree of reduction achievable through the *retrofit* application of the best system of *continuous* emission reduction." §7651f(b)(2) (emphasis added). The comparatively unadorned use of the phrase "best system of emission reduction" in Section 111, the Government urges, "suggest[s] a conscious congressional" choice *not* to limit the measures that may constitute the BSER to those applicable at or to an individual source. *Id.*, at 32.

These arguments, however, concern an interpretive question that is not at issue. We have no occasion to decide whether the statutory phrase "system of emission reduction" refers *exclusively* to measures that improve the pollution performance of individual sources, such that all other actions are ineligible to qualify as the BSER. To be sure, it is pertinent to our analysis that EPA has acted consistent

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with such a limitation for the first four decades of the statute's existence. But the only interpretive question before us, and the only one we answer, is more narrow: whether the "best system of emission reduction" identified by EPA in the Clean Power Plan was within the authority granted to the Agency in Section 111(d) of the Clean Air Act. For the reasons given, the answer is no.[5]

* * *

Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible "solution to the crisis of the day." *New York* v. *United States*, 505 U. S. 144, 187 (1992). But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d). A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body. The judgment of the Court of Appeals for the District of Columbia Circuit is reversed, and the cases are remanded for further proceedings consistent with this opinion.

It is so ordered.

[5] We find it odd that the dissent accuses us of champing at the bit to "constrain EPA's efforts to address climate change," *post*, at 4, yet also chides us for "mak[ing] no effort" to opine—in what would be plain dicta—on "how far [our] opinion constrain[s] EPA," *post*, at 12.

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SUPREME COURT OF THE UNITED STATES

Nos. 20–1530, 20–1531, 20–1778 and 20–1780

WEST VIRGINIA, ET AL., PETITIONERS
20–1530 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

THE NORTH AMERICAN COAL CORPORATION, PETITIONER
20–1531 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

WESTMORELAND MINING HOLDINGS LLC, PETITIONER
20–1778 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

NORTH DAKOTA, PETITIONER
20–1780 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 30, 2022]

JUSTICE GORSUCH, with whom JUSTICE ALITO joins, concurring.

To resolve today's case the Court invokes the major questions doctrine. Under that doctrine's terms, administrative agencies must be able to point to "'clear congressional authorization'" when they claim the power to make decisions of vast "'economic and political significance.'" *Ante*, at 17, 19. Like many parallel clear-statement rules in our law, this one operates to protect foundational constitutional

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guarantees. I join the Court's opinion and write to offer some additional observations about the doctrine on which it rests.

I

A

One of the Judiciary's most solemn duties is to ensure that acts of Congress are applied in accordance with the Constitution in the cases that come before us. To help fulfill that duty, courts have developed certain "clear-statement" rules. These rules assume that, absent a clear statement otherwise, Congress means for its laws to operate in congruence with the Constitution rather than test its bounds. In this way, these clear-statement rules help courts "act as faithful agents of the Constitution." A. Barrett, Substantive Canons and Faithful Agency, 90 B. U. L. Rev. 109, 169 (2010) (Barrett).

Consider some examples. The Constitution prohibits Congress from passing laws imposing various types of retroactive liability. See Art. I, § 9; *Landgraf* v. *USI Film Products*, 511 U. S. 244, 265–266 (1994). Consistent with this rule, Chief Justice Marshall long ago advised that "a court . . . ought to struggle hard against a [statutory] construction which will, by a retrospective operation, affect the rights of parties." *United States* v. *Schooner Peggy*, 1 Cranch 103, 110 (1801). Justice Paterson likewise insisted that courts must interpret statutes to apply only prospectively "unless they are so clear, strong, and imperative, that no other meaning can be annexed to them." *United States* v. *Heth*, 3 Cranch 399, 413 (1806).

The Constitution also incorporates the doctrine of sovereign immunity. See, *e.g.*, *Hans* v. *Louisiana*, 134 U. S. 1, 12–17 (1890). To enforce that doctrine, courts have consistently held that "nothing but express words, or an insurmountable implication" would justify the conclusion that

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lawmakers intended to abrogate the States' sovereign immunity. *Chisholm* v. *Georgia*, 2 Dall. 419, 450 (1793) (Iredell, J., dissenting); see *Seminole Tribe of Fla.* v. *Florida*, 517 U. S. 44, 55 (1996). In a similar vein, Justice Story observed that "[i]t is a general rule in the interpretation of legislative acts not to construe them to embrace the sovereign power or government, unless expressly named or included by necessary implication." *United States* v. *Greene*, 26 F. Cas. 33, 34 (No. 15, 258) (CC Me. 1827).

The major questions doctrine works in much the same way to protect the Constitution's separation of powers. *Ante*, at 19. In Article I, "the People" vested "[a]ll" federal "legislative powers . . . in Congress." Preamble; Art. I, § 1. As Chief Justice Marshall put it, this means that "important subjects . . . must be entirely regulated by the legislature itself," even if Congress may leave the Executive "to act under such general provisions to fill up the details." *Wayman* v. *Southard*, 10 Wheat. 1, 42–43 (1825). Doubtless, what qualifies as an important subject and what constitutes a detail may be debated. See, *e.g.*, *Gundy* v. *United States*, 588 U. S. ___, ___–___ (2019) (plurality opinion) (slip op., at 4–6); *id.*, at ___–___ (GORSUCH, J., dissenting) (slip op., at 10–12). But no less than its rules against retroactive legislation or protecting sovereign immunity, the Constitution's rule vesting federal legislative power in Congress is "vital to the integrity and maintenance of the system of government ordained by the Constitution." *Marshall Field & Co.* v. *Clark*, 143 U. S. 649, 692 (1892).

It is vital because the framers believed that a republic—a thing of the people—would be more likely to enact just laws than a regime administered by a ruling class of largely unaccountable "ministers." The Federalist No. 11, p. 85 (C. Rossiter ed. 1961) (A. Hamilton). From time to time, some

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have questioned that assessment.[1] But by vesting the lawmaking power in the people's elected representatives, the Constitution sought to ensure "not only that all power [w]ould be derived from the people," but also "that those [e]ntrusted with it should be kept in dependence on the people." *Id.*, No. 37, at 227 (J. Madison). The Constitution, too, placed its trust not in the hands of "a few, but [in] a number of hands," *ibid.*, so that those who make our laws would better reflect the diversity of the people they represent and have an "immediate dependence on, and an intimate sympathy with, the people." *Id.*, No. 52, at 327 (J. Madison). Today, some might describe the Constitution as having designed the federal lawmaking process to capture the wisdom of the masses. See P. Hamburger, Is Administrative Law Unlawful? 502–503 (2014).

Admittedly, lawmaking under our Constitution can be difficult. But that is nothing particular to our time nor any accident. The framers believed that the power to make new laws regulating private conduct was a grave one that could, if not properly checked, pose a serious threat to individual liberty. See The Federalist No. 48, at 309–312 (J. Madison); see also *id.*, No. 73, at 441–442 (A. Hamilton). As a result,

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[1] For example, Woodrow Wilson famously argued that "popular sovereignty" "embarrasse[d]" the Nation because it made it harder to achieve "executive expertness." The Study of Administration, 2 Pol. Sci. Q. 197, 207 (1887) (Administration). In Wilson's eyes, the mass of the people were "selfish, ignorant, timid, stubborn, or foolish." *Id.*, at 208. He expressed even greater disdain for particular groups, defending "[t]he white men of the South" for "rid[ding] themselves, by fair means or foul, of the intolerable burden of governments sustained by the votes of ignorant [African-Americans]." 9 W. Wilson, History of the American People 58 (1918). He likewise denounced immigrants "from the south of Italy and men of the meaner sort out of Hungary and Poland," who possessed "neither skill nor energy nor any initiative of quick intelligence." 5 *id.*, at 212. To Wilson, our Republic "tr[ied] to do too much by vote." Administration 214.

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the framers deliberately sought to make lawmaking difficult by insisting that two houses of Congress must agree to any new law and the President must concur or a legislative supermajority must override his veto.

The difficulty of the design sought to serve other ends too. By effectively requiring a broad consensus to pass legislation, the Constitution sought to ensure that any new laws would enjoy wide social acceptance, profit from input by an array of different perspectives during their consideration, and thanks to all this prove stable over time. See *id.*, No. 10, at 82–84 (J. Madison). The need for compromise inherent in this design also sought to protect minorities by ensuring that their votes would often decide the fate of proposed legislation—allowing them to wield real power alongside the majority. See *id.*, No. 51, at 322–324 (J. Madison). The difficulty of legislating at the federal level aimed as well to preserve room for lawmaking "by governments more local and more accountable than a distant federal" authority, *National Federation of Independent Business* v. *Sebelius*, 567 U. S. 519, 536 (2012) (plurality opinion), and in this way allow States to serve as "laborator[ies]" for "novel social and economic experiments," *New State Ice Co.* v. *Liebmann*, 285 U. S. 262, 311 (1932) (Brandeis, J., dissenting); see J. Sutton, 51 Imperfect Solutions: States and the Making of American Constitutional Law 11 (2018).

Permitting Congress to divest its legislative power to the Executive Branch would "dash [this] whole scheme." *Department of Transportation* v. *Association of American Railroads*, 575 U. S. 43, 61 (2015) (ALITO, J., concurring). Legislation would risk becoming nothing more than the will of the current President, or, worse yet, the will of unelected officials barely responsive to him. See S. Breyer, Making Our Democracy Work: A Judge's View 110 (2010) ("[T]he president may not have the time or willingness to review [agency] decisions"). In a world like that, agencies could churn out new laws more or less at whim. Intrusions on

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liberty would not be difficult and rare, but easy and profuse. See The Federalist No. 47, at 303 (J. Madison); *id.*, No. 62, at 378 (J. Madison). Stability would be lost, with vast numbers of laws changing with every new presidential administration. Rather than embody a wide social consensus and input from minority voices, laws would more often bear the support only of the party currently in power. Powerful special interests, which are sometimes "uniquely" able to influence the agendas of administrative agencies, would flourish while others would be left to ever-shifting winds. T. Merrill, Capture Theory and the Courts: 1967–1983, 72 Chi.-Kent L. Rev. 1039, 1043 (1997). Finally, little would remain to stop agencies from moving into areas where state authority has traditionally predominated. See, *e.g.*, *Solid Waste Agency of Northern Cook Cty.* v. *Army Corps of Engineers*, 531 U. S. 159, 173–174 (2001) (*SWANC*). That would be a particularly ironic outcome, given that so many States have robust nondelegation doctrines designed to ensure democratic accountability in their state lawmaking processes. See R. May, The Nondelegation Doctrine is Alive and Well in the States, The Reg. Rev. (Oct. 15, 2020).

B

Much as constitutional rules about retroactive legislation and sovereign immunity have their corollary clear-statement rules, Article I's Vesting Clause has its own: the major questions doctrine. See *Gundy*, 588 U. S., at ___–___ (GORSUCH, J., dissenting) (slip op., at 20–21). Some version of this clear-statement rule can be traced to at least 1897, when this Court confronted a case involving the Interstate Commerce Commission, the federal government's "first modern regulatory agency." S. Dudley, Milestones in the Evolution of the Administrative State 3 (Nov. 2020). The ICC argued that Congress had endowed it with the power to set carriage prices for railroads. See *ICC* v. *Cincinnati, N. O. & T. P. R. Co.*, 167 U. S. 479, 499 (1897). The Court

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deemed that claimed authority "a power of supreme delicacy and importance," given the role railroads then played in the Nation's life. *Id.*, at 505. Therefore, the Court explained, a special rule applied:

> "That Congress has transferred such a power to any administrative body is not to be presumed or implied from any doubtful and uncertain language. The words and phrases efficacious to make such a delegation of power are well understood, and have been frequently used, and if Congress had intended to grant such a power to the [agency], it cannot be doubted that it would have used language *open to no misconstruction*, but *clear and direct*." *Ibid.* (emphasis added).

With the explosive growth of the administrative state since 1970, the major questions doctrine soon took on special importance.[2] In 1980, this Court held it "unreasonable to assume" that Congress gave an agency "unprecedented power[s]" in the "absence of a clear [legislative] mandate." *Industrial Union Dept., AFL–CIO* v. *American Petroleum Institute*, 448 U. S. 607, 645 (plurality opinion). In the years that followed, the Court routinely enforced "the nondelegation doctrine" through "the interpretation of statu-

[2] In the 1960s and 1970s, Congress created dozens of new federal administrative agencies. See W. Howell & D. Lewis, Agencies by Presidential Design, 64 J. of Politics 1095, 1105 (Nov. 2002). Between 1970 and 1990, the Code of Federal Regulations grew from about 44,000 pages to about 106,000. See C. DeMuth, Can the Administrative State be Tamed?, 8 J. Legal Analysis 121, 126 (Feb. 2016). Today, Congress issues "roughly two hundred to four hundred laws" every year, while "federal administrative agencies adopt something on the order of three thousand to five thousand final rules." R. Cass, Rulemaking Then and Now: From Management to Lawmaking, 28 Geo. Mason L. Rev. 683, 694 (2021). Beyond that, agencies regularly "produce thousands, if not millions," of guidance documents which, as a practical matter, bind affected parties too. See C. Coglianese, Illuminating Regulatory Guidance, 9 Mich. J. Env. & Admin. L. 243, 247–248 (2020).

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tory texts, and, more particularly, [by] giving narrow constructions to statutory delegations that might otherwise be thought to be unconstitutional." *Mistretta* v. *United States*, 488 U. S. 361, 373, n. 7 (1989). In fact, this Court applied the major questions doctrine in "all corners of the administrative state," whether the issue at hand involved an agency's asserted power to regulate tobacco products, ban drugs used in physician-assisted suicide, extend Clean Air Act regulations to private homes, impose an eviction moratorium, or enforce a vaccine mandate. *Ante*, at 17; see *FDA* v. *Brown & Williamson Tobacco Corp.*, 529 U. S. 120, 160 (2000); *Gonzales* v. *Oregon*, 546 U. S. 243, 267 (2006); *Utility Air Regulatory Group* v. *EPA*, 573 U. S. 302, 324 (2014); *Alabama Assn. of Realtors* v. *Department of Health and Human Servs.*, 594 U. S. ___, ___ (2021) (*per curiam*) (slip op., at 6); *National Federation of Independent Business* v. *OSHA*, 595 U. S. ___, ___ (2022) (*per curiam*) (slip op., at 6).[3]

The Court has applied the major questions doctrine for the same reason it has applied other similar clear-statement rules—to ensure that the government does "not inadvertently cross constitutional lines." Barrett 175. And the constitutional lines at stake here are surely no less important than those this Court has long held sufficient to justify parallel clear-statement rules. At stake is not just a question of retroactive liability or sovereign immunity, but basic questions about self-government, equality, fair notice,

[3]At times, this Court applied the major questions doctrine more like an ambiguity canon. See *FDA* v. *Brown & Williamson Tobacco Corp.*, 529 U. S. 120, 159 (2000). Ambiguity canons merely instruct courts on how to "choos[e] between equally plausible interpretations of ambiguous text," and are thus weaker than clear-statement rules. Barrett 109. But our precedents have usually applied the doctrine as a clear-statement rule, and the Court today confirms that is the proper way to apply it. See *ante*, at 19–20, 28.

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federalism, and the separation of powers. See Part I–A, *supra*. The major questions doctrine seeks to protect against "unintentional, oblique, or otherwise unlikely" intrusions on these interests. *NFIB* v. *OSHA*, 595 U. S., at ___ (GORSUCH, J., concurring) (slip op., at 5). The doctrine does so by ensuring that, when agencies seek to resolve major questions, they at least act with clear congressional authorization and do not "exploit some gap, ambiguity, or doubtful expression in Congress's statutes to assume responsibilities far beyond" those the people's representatives actually conferred on them. *Ibid.* As the Court aptly summarizes it today, the doctrine addresses "a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted." *Ante*, at 20.

II

A

Turning from the doctrine's function to its application, it seems to me that our cases supply a good deal of guidance about when an agency action involves a major question for which clear congressional authority is required.

First, this Court has indicated that the doctrine applies when an agency claims the power to resolve a matter of great "political significance," *NFIB* v. *OSHA*, 595 U. S., at ___ (slip op., at 6) (internal quotation marks omitted), or end an "earnest and profound debate across the country," *Gonzales*, 546 U. S., at 267–268 (internal quotation marks omitted); see *ante*, at 17. So, for example, in *Gonzales*, the Court found that the doctrine applied when the Attorney General issued a regulation that would have effectively banned most forms of physician-assisted suicide even as certain States were considering whether to permit the practice. 546 U. S., at 267. And in *NFIB* v. *OSHA*, the Court held the doctrine applied when an agency sought to mandate COVID–19 vaccines nationwide for most workers at a

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time when Congress and state legislatures were engaged in robust debates over vaccine mandates. 595 U. S., at ___ (slip op., at 5); *id.*, at ___ (GORSUCH, J., concurring) (slip op., at 3). Relatedly, this Court has found it telling when Congress has "'considered and rejected'" bills authorizing something akin to the agency's proposed course of action. *Ante*, at 20, 27 (quoting *Brown & Williamson*, 529 U. S., at 144). That too may be a sign that an agency is attempting to "'work [a]round'" the legislative process to resolve for itself a question of great political significance. *NFIB* v. *OSHA*, 595 U. S., at ___ (GORSUCH, J., concurring) (slip op., at 3).[4]

Second, this Court has said that an agency must point to clear congressional authorization when it seeks to regulate "'a significant portion of the American economy,'" *ante*, at 18 (quoting *Utility Air*, 573 U. S., at 324), or require "billions of dollars in spending" by private persons or entities, *King* v. *Burwell*, 576 U. S. 473, 485 (2015). The Court has held that regulating tobacco products, eliminating rate regulation in the telecommunications industry, subjecting private homes to Clean Air Act restrictions, and suspending local housing laws and regulations can sometimes check this box. See *Brown & Williamson*, 529 U. S., at 160; *MCI Telecommunications Corp.* v. *American Telephone & Telegraph Co.*, 512 U. S. 218, 231 (1994) (*MCI*); *Utility Air*, 573 U. S., at 324; *Alabama Assn. of Realtors*, 594 U. S., at ___ (slip op., at 6).

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[4] In the dissent's view, the Court has erred both today and in the past by pointing to failed legislation. *Post*, at 27–28 (opinion of KAGAN, J.). But the Court has not pointed to failed legislation to resolve what a duly enacted statutory text means, only to help resolve the antecedent question whether the agency's challenged action implicates a major question. The dissent endorses looking to extrinsic evidence to resolve that question too. See *post*, at 21–22 (discussing whether there is a "mismatch" between an agency's expertise and its challenged action).

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Third, this Court has said that the major questions doctrine may apply when an agency seeks to "intrud[e] into an area that is the particular domain of state law." *Ibid.* Of course, another longstanding clear-statement rule—the federalism canon—also applies in these situations. To preserve the "proper balance between the States and the Federal Government" and enforce limits on Congress's Commerce Clause power, courts must "'be certain of Congress's intent'" before finding that it "legislate[d] in areas traditionally regulated by the States." *Gregory* v. *Ashcroft*, 501 U. S. 452, 459–460 (1991). But unsurprisingly, the major questions doctrine and the federalism canon often travel together. When an agency claims the power to regulate vast swaths of American life, it not only risks intruding on Congress's power, it also risks intruding on powers reserved to the States. See *SWANC*, 531 U. S., at 162, 174.

While this list of triggers may not be exclusive, each of the signs the Court has found significant in the past is present here, making this a relatively easy case for the doctrine's application. The EPA claims the power to force coal and gas-fired power plants "to cease [operating] altogether." *Ante*, at 24. Whether these plants should be allowed to operate is a question on which people today may disagree, but it is a question everyone can agree is vitally important. See *ante*, at 24–25. Congress has debated the matter frequently. *Ibid.*; see generally Climate Change, The History of a Consensus and the Causes of Inaction, Hearing before the Subcommittee on Environment of the House Committee on Oversight and Reform, 116th Cong., 1st Sess., pt. I (2019). And so far it has "conspicuously and repeatedly declined" to adopt legislation similar to the Clean Power Plan (CPP). *Ante*, at 20; see *American Lung Assn.* v. *EPA*, 985 F. 3d 914, 998, n. 19 (CADC 2021) (Walker, J., concurring in part, concurring in judgment in part, and dissenting in part) (cataloguing failed legislative proposals); cf. *Brown &*

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Williamson, 529 U. S., at 144. It seems that fact has frustrated the Executive Branch and led it to attempt its own regulatory solution in the CPP. See 985 F. 3d, at 998, n. 20 (President stating that "'if Congress won't act soon . . . I will'"); cf. *United States Telecom Assn.* v. *FCC*, 855 F. 3d 381, 423–424 (CADC 2017) (Kavanaugh, J., dissenting from denial of rehearing en banc) (noting a "President's intervention [may] underscor[e] the enormous significance" of a regulation).

Other suggestive factors are present too. "The electric power sector is among the largest in the U. S. economy, with links to every other sector." N. Richardson, Keeping Big Cases From Making Bad Law: The Resurgent "Major Questions" Doctrine, 49 Conn. L. Rev. 355, 388 (2016). The Executive Branch has acknowledged that its proposed rule would force an "aggressive transformation" of the electricity sector through "transition to zero-carbon renewable energy sources." White House Fact Sheet, App. in *American Lung Assn.* v. *EPA*, No. 19–1140 (CADC), pp. 2076–2077. The Executive Branch has also predicted its rule would force dozens of power plants to close and eliminate thousands of jobs by 2025. See EPA, Regulatory Impact Analysis for the Clean Power Plan Final Rule 3–27, 3–30, 3–33, 6–25 (Oct. 23, 2015). And industry analysts have estimated the CPP would cause consumers' electricity costs to rise by over $200 billion. See National Mining Assn., EPA's Clean Power Plan: An Economic Impact Analysis 2, 4 (2015). Finally, the CPP unquestionably has an impact on federalism, as "the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States." *Arkansas Elec. Cooperative Corp.* v. *Arkansas Pub. Serv. Comm'n*, 461 U. S. 375, 377 (1983). None of this is to say the policy the agency seeks to pursue is unwise or should not be pursued. It is only to say that the agency seeks to resolve for itself the sort of question normally reserved for Congress. As a result, we look for clear evidence

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that the people's representatives in Congress have actually afforded the agency the power it claims.

B

At this point, the question becomes what qualifies as a clear congressional statement authorizing an agency's action. Courts have long experience applying clear-statement rules throughout the law, and our cases have identified several telling clues in this context too.

First, courts must look to the legislative provisions on which the agency seeks to rely "'with a view to their place in the overall statutory scheme.'" *Brown & Williamson*, 529 U. S., at 133. "[O]blique or elliptical language" will not supply a clear statement. *Ante*, at 18; see *Spector* v. *Norwegian Cruise Line Ltd.*, 545 U. S. 119, 139 (2005) (plurality opinion) (cautioning against reliance on "broad or general language"). Nor may agencies seek to hide "elephants in mouseholes," *Whitman* v. *American Trucking Assns., Inc.*, 531 U. S. 457, 468 (2001), or rely on "gap filler" provisions, *ante*, at 20. So, for example, in *MCI* this Court rejected the Federal Communication Commission's attempt to eliminate rate regulation for the telecommunications industry based on a "subtle" provision that empowered the FCC to "'modify'" rates. 512 U. S., at 231. In *Brown & Williamson*, the Court rejected the Food and Drug Administration's attempt to regulate cigarettes based a "cryptic" statutory provision that granted the agency the power to regulate "drugs" and "devices." 529 U. S., at 126, 156, 160. And in *Gonzales*, the Court doubted that Congress gave the Attorney General "broad and unusual authority" to regulate drugs for physician-assisted suicide through "oblique" statutory language. 546 U. S., at 267.

Second, courts may examine the age and focus of the statute the agency invokes in relation to the problem the agency seeks to address. As the Court puts it today, it is unlikely

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that Congress will make an "[e]xtraordinary gran[t] of regulatory authority" through "vague language" in "'a long-extant statute.'" *Ante*, at 18–20 (quoting *Utility Air*, 573 U. S., at 324). Recently, too, this Court found a clear statement lacking when OSHA sought to impose a nationwide COVID–19 vaccine mandate based on a statutory provision that was adopted 40 years before the pandemic and that focused on conditions specific to the workplace rather than a problem faced by society at large. See *NFIB* v. *OSHA*, 595 U. S., at ___ (GORSUCH, J., concurring) (slip op., at 3). Of course, sometimes old statutes may be written in ways that apply to new and previously unanticipated situations. See *Sedima, S. P. R. L.* v. *Imrex Co.*, 473 U. S. 479, 499 (1985). But an agency's attempt to deploy an old statute focused on one problem to solve a new and different problem may also be a warning sign that it is acting without clear congressional authority. See *ante*, at 18.

Third, courts may examine the agency's past interpretations of the relevant statute. See *ante*, at 20–21. A "contemporaneous" and long-held Executive Branch interpretation of a statute is entitled to some weight as evidence of the statute's original charge to an agency. *United States* v. *Philbrick*, 120 U. S. 52, 59 (1887). Conversely, in *NFIB* v. *OSHA*, the Court found it "telling that OSHA, in its half century of existence, ha[d] never before adopted a broad public health regulation" under the statute that the agency sought to invoke as authority for a nationwide vaccine mandate. 595 U. S., at ___ (slip op., at 8); *ante*, at 18; see also *Brown & Williamson*, 529 U. S., at 158–159 (noting that for decades the FDA had said it lacked statutory power to regulate cigarettes). As the Court states today, "'the want of [an] assertion of power by those who presumably would be alert'" to it is "'significant in determining whether such power was actually conferred.'" *Ante*, at 21. When an agency claims to have found a previously "unheralded power," its assertion generally warrants "a measure of

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skepticism." *Utility Air*, 573 U. S., at 324.

Fourth, skepticism may be merited when there is a mismatch between an agency's challenged action and its congressionally assigned mission and expertise. *Ante*, at 25. As the Court explains, "[w]hen an agency has no comparative expertise in making certain policy judgments, . . . Congress presumably would not task it with doing so." *Ibid.* (internal quotation marks and alterations omitted). So, for example, in *Alabama Assn. of Realtors*, this Court rejected an attempt by a public health agency to regulate housing. 594 U. S., at ___ (slip op., at 5). And in *NFIB* v. *OSHA*, the Court rejected an effort by a workplace safety agency to ordain "broad public health measures" that "f[ell] outside [its] sphere of expertise." 595 U. S., at ___ (slip op., at 6).[5]

Asking these questions again yields a clear answer in our case. See *ante*, at 28–31. As the Court details, the agency before us cites no specific statutory authority allowing it to transform the Nation's electrical power supply. See *ante*, at 28. Instead, the agency relies on a rarely invoked statutory provision that was passed with little debate and has been characterized as an "obscure, never-used section of the law." *Ante*, at 6 (internal quotation marks omitted). Nor has the agency previously interpreted the relevant provision to confer on it such vast authority; there is no original, longstanding, and consistent interpretation meriting judi-

[5]The dissent not only agrees that a mismatch between an agency's expertise and its challenged action is relevant to the major questions doctrine analysis; the dissent suggests that such a mismatch is necessary to the doctrine's application. See *post*, at 14–15. But this Court has never taken that view. See, *e.g.*, *ICC* v. *Cincinnati, N. O. & T. P. R. Co.*, 167 U. S. 479, 505 (1897) (interstate commerce agency regulating interstate railroad commerce); *Industrial Union Dept., AFL–CIO* v. *American Petroleum Institute*, 448 U. S. 607, 645 (1980) (plurality opinion) (workplace safety agency regulating workplace carcinogens); *Brown & Williamson*, 529 U. S., at 159–160 (drug agency regulating tobacco); *King* v. *Burwell*, 576 U. S. 473, 485–486 (2015) (tax agency administering tax credits).

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cial respect. See *ante*, at 20–22. Finally, there is a "mismatch" between the EPA's expertise over environmental matters and the agency's claim that "Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in deciding how Americans will get their energy." *Ante*, at 25. Such a claimed power "requires technical and policy expertise *not* traditionally needed in [the] EPA's regulatory development." *Ibid.* (internal quotation marks omitted). Again, in observing this much, the Court does not purport to pass on the wisdom of the agency's course. It acknowledges only that agency officials have sought to resolve a major policy question without clear legislative authorization to do so.

III

In places, the dissent seems to suggest that we should not be unduly "'concerned'" with the Constitution's assignment of the legislative power to Congress. *Post*, at 29 (opinion of KAGAN, J.). Echoing Woodrow Wilson, the dissent seems to think "a modern Nation" cannot afford such sentiments. *Post*, at 29–31. But recently, our dissenting colleagues acknowledged that the Constitution assigns "all legislative Powers" to Congress and "bar[s their] further delegation." *Gundy*, 588 U. S., at ___ (plurality opinion of KAGAN, J.) (slip op., at 4) (internal quotation marks and alteration omitted). To be sure, in that case we disagreed about the exact nature of the "nondelegation inquiry" courts must employ to vindicate the Constitution. *Id.*, at ___ (slip op., at 5). But like Chief Justice Marshall, we all recognized that the Constitution does impose some limits on the delegation of legislative power. See *ibid.*; *Wayman*, 10 Wheat., at 42–43. And while we all agree that administrative agencies have important roles to play in a modern nation, surely none of us wishes to abandon our Republic's promise that the people and their representatives should have a mean-

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ingful say in the laws that govern them. Cf. *Rucho* v. *Common Cause*, 588 U. S. ___, ___ (2019) (KAGAN, J., dissenting) (slip op., at 7) ("Republican liberty demands not only, that all power should be derived from the people; but that those entrusted with it should be kept in dependence on the people" (internal quotation marks and alteration omitted)).[6]

So what is our real point of disagreement? The dissent next suggests that the Court strays from its commitment to textualism by relying on a clear-statement rule (the major questions doctrine) to resolve today's case. *Post*, at 28. But our law is full of clear-statement rules and has been since the founding. Our colleagues do not dispute the point. In fact, they have regularly invoked many of these rules.[7]

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[6] In the course of its argument, the dissent leans heavily on two recent academic articles. *Post*, at 29. But if a battle of law reviews were the order of the day, it might be worth adding to the reading list. See, *e.g.*, I. Wurman, Nondelegation at the Founding, 130 Yale L. J. 1490, 1493–1494 (2021); D. Candeub, Preference and Administrative Law, 72 Admin. L. Rev. 607, 614–628 (2020); P. Hamburger, Delegation or Divesting?, 115 Nw. L. Rev. Online 88, 91–110 (2020); M. McConnell, The President Who Would Not Be King 326–335 (2020); A. Gordon, Nondelegation, 12 N. Y. U. J. L. & Liberty 718, 719 (2019); R. Cass, Delegation Reconsidered: A Delegation Doctrine for the Modern Administrative State, 40 Harv. J. L. & Pub. Pol'y 147, 155–161 (2017); G. Lawson & G. Seidman, "A Great Power of Attorney:" Understanding the Fiduciary Constitution 104–129 (2017); P. Hamburger, Is Administrative Law Unlawful? 377–402 (2014); L. Alexander & S. Prakash, Reports of the Nondelegation Doctrine's Death are Greatly Exaggerated, 70 U. Chi. L. Rev. 1297, 1298–1299 (2003); G. Lawson, Delegation and Original Meaning, 88 Va. L. Rev. 327, 335–343 (2002); D. Schoenbrod, The Delegation Doctrine: Could the Court Give It Substance? 83 Mich. L. Rev. 1223, 1252–1255, 1260–1261 (1985); see generally P. Wallison & J. Yoo, The Administrative State Before the Supreme Court: Perspectives on the Nondelegation Doctrine (2022).

[7] See, *e.g.*, *United States* v. *Washington*, 596 U. S. ___, ___ (2022) (slip op., at 6) (intergovernmental immunity); *Rehaif* v. *United States*, 588 U. S. ___, ___ (2019) (slip op., at 3) (*mens rea*); *Michigan* v. *Bay Mills Indian Community*, 572 U. S. 782, 790–791 (2014) (sovereign immunity); *Vartelas* v. *Holder*, 566 U. S. 257, 261, 266–267 (2012) (retroactivity); *Gonzalez* v. *Thaler*, 565 U. S. 134, 141–142 (2012) (presumption against

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If that's not the problem, perhaps the dissent means to suggest that the major questions doctrine does not belong on the list of our clear-statement rules. At times, the dissent appears to dismiss the doctrine as a "get-out-of-text free car[d]." *Ibid.* The dissent even seems to suggest that the doctrine could threaten "the safety and efficacy of medications" or lead to "the routine adulteration of food." *Post*, at 31. But then again, the dissent also acknowledges that the major questions doctrine should "sensibl[y]" apply in at least some situations. *Post*, at 14–15. The dissent even favorably highlights one application of the doctrine that our colleagues criticized less than a year ago. See *post*, at 18 (citing *Alabama Assn. of Realtors*, 594 U. S. ___). And, of course, our colleagues have joined other applications of the major questions doctrine in the past. See, *e.g.*, *King*, 576 U. S., at 485–486; *Gonzales*, 546 U. S., at 267–268. Nor does the dissent really seem to dispute that a major question is at stake in this case. As the dissent observes, the agency's challenged action before us concerns one of "the greatest . . . challenge[s] of our time." *Post*, at 21. If this case does not implicate a "question of deep economic and political significance," *King*, 576 U. S., at 486 (internal quotation marks omitted), it is unclear what might.[8]

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rule being jurisdictional); *Smith* v. *Bayer Corp.*, 564 U. S. 299, 307 (2011) (presumption that federal injunctions don't bar parallel state proceedings); *Fowler* v. *United States*, 563 U. S. 668, 677 (2011) (federalism canon); *Kucana* v. *Holder*, 558 U. S. 233, 237 (2010) (presumption in favor of judicial review); *Holland* v. *Florida*, 560 U. S. 631, 645–646 (2010) (presumption in favor of equitable tolling); *Hamilton* v. *Lanning*, 560 U. S. 505, 517 (2010) (presumption that Bankruptcy Code didn't erode past practice).

[8]The dissent seeks to invoke Justice Scalia as authority against the major questions doctrine. See *post*, at 31–32. But the dissent neglects to mention that Justice Scalia authored or joined several of the Court's major questions decisions, including *Brown & Williamson*, which the dissent describes as the "key case." *Post*, at 15–16 (citing 529 U. S. 120); see also *Whitman* v. *American Trucking Assns., Inc.*, 531 U. S. 457, 468 (2001); *Utility Air*, 573 U. S., at 307; A. Scalia, A Note on the Benzene

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In the end, our disagreement really seems to center on a difference of opinion about whether the statute at issue here clearly authorizes the agency to adopt the CPP. The dissent even complains that I have failed to conduct an exhaustive analysis of the relevant statutory language. See *post*, at 28, n. 8. But in this concurrence, I have sought to provide some observations about the underlying doctrine on which today's decision rests. On the merits of the case before us, I join the Court's opinion, which comprehensively sets forth why Congress did not clearly authorize the EPA to engage in a "generation shifting approach" to the production of energy in this country. *Ante*, at 28. In reaching its judgment, the Court hardly professes to "appoin[t] itself" "the decision-maker on climate policy." *Post*, at 33. The Court acknowledges only that, under our Constitution, the people's elected representatives in Congress are the decisionmakers here—and they have not clearly granted the agency the authority it claims for itself. *Ante*, at 31.

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When Congress seems slow to solve problems, it may be only natural that those in the Executive Branch might seek to take matters into their own hands. But the Constitution does not authorize agencies to use pen-and-phone regulations as substitutes for laws passed by the people's representatives. In our Republic, "[i]t is the peculiar province of the legislature to prescribe general rules for the government of society." *Fletcher* v. *Peck*, 6 Cranch 87, 136 (1810). Because today's decision helps safeguard that foundational constitutional promise, I am pleased to concur.

Case, American Enterprise Institute, J. on Govt. & Soc., July–Aug. 1980, pp. 27–28.

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SUPREME COURT OF THE UNITED STATES

Nos. 20–1530, 20–1531, 20–1778 and 20–1780

WEST VIRGINIA, ET AL., PETITIONERS
20–1530 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

THE NORTH AMERICAN COAL CORPORATION, PETITIONER
20–1531 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

WESTMORELAND MINING HOLDINGS LLC, PETITIONER
20–1778 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

NORTH DAKOTA, PETITIONER
20–1780 *v.*
ENVIRONMENTAL PROTECTION AGENCY, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 30, 2022]

JUSTICE KAGAN, with whom JUSTICE BREYER and JUSTICE SOTOMAYOR join, dissenting.

Today, the Court strips the Environmental Protection Agency (EPA) of the power Congress gave it to respond to "the most pressing environmental challenge of our time." *Massachusetts* v. *EPA*, 549 U. S. 497, 505 (2007).

Climate change's causes and dangers are no longer subject to serious doubt. Modern science is "unequivocal that

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human influence"—in particular, the emission of greenhouse gases like carbon dioxide—"has warmed the atmosphere, ocean and land." Intergovernmental Panel on Climate Change, Sixth Assessment Report, The Physical Science Basis: Headline Statements 1 (2021). The Earth is now warmer than at any time "in the history of modern civilization," with the six warmest years on record all occurring in the last decade. U. S. Global Change Research Program, Fourth National Climate Assessment, Vol. I, p. 10 (2017); Brief for Climate Scientists as *Amici Curiae* 8. The rise in temperatures brings with it "increases in heat-related deaths," "coastal inundation and erosion," "more frequent and intense hurricanes, floods, and other extreme weather events," "drought," "destruction of ecosystems," and "potentially significant disruptions of food production." *American Elec. Power Co.* v. *Connecticut*, 564 U. S. 410, 417 (2011) (internal quotation marks omitted). If the current rate of emissions continues, children born this year could live to see parts of the Eastern seaboard swallowed by the ocean. See Brief for Climate Scientists as *Amici Curiae* 6. Rising waters, scorching heat, and other severe weather conditions could force "mass migration events[,] political crises, civil unrest," and "even state failure." Dept. of Defense, Climate Risk Analysis 8 (2021). And by the end of this century, climate change could be the cause of "4.6 million excess yearly deaths." See R. Bressler, The Mortality Cost of Carbon, 12 Nature Communications 4467, p. 5 (2021).

Congress charged EPA with addressing those potentially catastrophic harms, including through regulation of fossil-fuel-fired power plants. Section 111 of the Clean Air Act directs EPA to regulate stationary sources of any substance that "causes, or contributes significantly to, air pollution" and that "may reasonably be anticipated to endanger public health or welfare." 42 U. S. C. §7411(b)(1)(A). Carbon dioxide and other greenhouse gases fit that description. See

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American Elec. Power, 564 U. S., at 416–417; *Massachusetts*, 549 U. S., at 528–532. EPA thus serves as the Nation's "primary regulator of greenhouse gas emissions." *American Elec. Power*, 564 U. S., at 428. And among the most significant of the entities it regulates are fossil-fuel-fired (mainly coal- and natural-gas-fired) power plants. Today, those electricity-producing plants are responsible for about one quarter of the Nation's greenhouse gas emissions. See EPA, Sources of Greenhouse Gas Emissions (Apr. 14, 2022), https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions. Curbing that output is a necessary part of any effective approach for addressing climate change.

To carry out its Section 111 responsibility, EPA issued the Clean Power Plan in 2015. The premise of the Plan—which no one really disputes—was that operational improvements at the individual-plant level would either "lead to only small emission reductions" or would cost far more than a readily available regulatory alternative. 80 Fed. Reg. 64727–64728 (2015). That alternative—which fossil-fuel-fired plants were "already using to reduce their [carbon dioxide] emissions" in "a cost effective manner"—is called generation shifting. *Id.*, at 64728, 64769. As the Court explains, the term refers to ways of shifting electricity generation from higher emitting sources to lower emitting ones—more specifically, from coal-fired to natural-gas-fired sources, and from both to renewable sources like solar and wind. See *ante*, at 8. A power company (like the many supporting EPA here) might divert its own resources to a cleaner source, or might participate in a cap-and-trade system with other companies to achieve the same emissions-reduction goals.

This Court has obstructed EPA's effort from the beginning. Right after the Obama administration issued the Clean Power Plan, the Court stayed its implementation. That action was unprecedented: Never before had the Court stayed a regulation then under review in the lower courts.

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See Reply Brief for 29 States and State Agencies in No. 15A773, p. 33 (conceding the point). The effect of the Court's order, followed by the Trump administration's repeal of the rule, was that the Clean Power Plan never went into effect. The ensuing years, though, proved the Plan's moderation. Market forces alone caused the power industry to meet the Plan's nationwide emissions target—through exactly the kinds of generation shifting the Plan contemplated. See 84 Fed. Reg. 32561–32562 (2019); Brief for United States 47. So by the time yet another President took office, the Plan had become, as a practical matter, obsolete. For that reason, the Biden administration announced that, instead of putting the Plan into effect, it would commence a new rulemaking. Yet this Court determined to pronounce on the legality of the old rule anyway. The Court may be right that doing so does not violate Article III mootness rules (which are notoriously strict). See *ante*, at 14–16. But the Court's docket is discretionary, and because no one is now subject to the Clean Power Plan's terms, there was no reason to reach out to decide this case. The Court today issues what is really an advisory opinion on the proper scope of the new rule EPA is considering. That new rule will be subject anyway to immediate, pre-enforcement judicial review. But this Court could not wait—even to see what the new rule says—to constrain EPA's efforts to address climate change.

The limits the majority now puts on EPA's authority fly in the face of the statute Congress wrote. The majority says it is simply "not plausible" that Congress enabled EPA to regulate power plants' emissions through generation shifting. *Ante*, at 31. But that is just what Congress did when it broadly authorized EPA in Section 111 to select the "best system of emission reduction" for power plants. §7411(a)(1). The "best system" full stop—no ifs, ands, or buts of any kind relevant here. The parties do not dispute that generation shifting is indeed the "best system"—the

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most effective and efficient way to reduce power plants' carbon dioxide emissions. And no other provision in the Clean Air Act suggests that Congress meant to foreclose EPA from selecting that system; to the contrary, the Plan's regulatory approach fits hand-in-glove with the rest of the statute. The majority's decision rests on one claim alone: that generation shifting is just too new and too big a deal for Congress to have authorized it in Section 111's general terms. But that is wrong. A key reason Congress makes broad delegations like Section 111 is so an agency can respond, appropriately and commensurately, to new and big problems. Congress knows what it doesn't and can't know when it drafts a statute; and Congress therefore gives an expert agency the power to address issues—even significant ones—as and when they arise. That is what Congress did in enacting Section 111. The majority today overrides that legislative choice. In so doing, it deprives EPA of the power needed—and the power granted—to curb the emission of greenhouse gases.

I

The Clean Air Act was major legislation, designed to deal with a major public policy issue. As Congress explained, its goal was to "speed up, expand, and intensify the war against air pollution" in all its forms. H. R. Rep. No. 91–1146, p. 1 (1970). Or as this Court similarly recognized, the Act was a "drastic remedy to what was perceived as a serious and otherwise uncheckable problem." *Union Elec. Co.* v. *EPA*, 427 U. S. 246, 256 (1976). The Act, as the majority describes, established three major regulatory programs to control air pollution from stationary sources like power plants. See *ante*, at 2–6. The National Ambient Air Quality Standards (NAAQS) and Hazardous Air Pollutants (HAP) programs prescribe standards for specified pollutants, not including carbon dioxide. Section 111's New Source Performance Standards program provides an additional tool for

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regulating emissions from categories of stationary sources deemed to contribute significantly to pollution. As applied to existing (not new) sources, the program mandates—via Section 111(d)—that EPA set emissions levels for pollutants not covered by the NAAQS or HAP programs, including carbon dioxide.

Section 111(d) thus ensures that EPA regulates existing power plants' emissions of *all* pollutants. When the pollutant at issue falls within the NAAQS or HAP programs, EPA need do no more. But when the pollutant falls outside those programs, Section 111(d) requires EPA to set an emissions level for currently operating power plants (and other stationary sources). That means no pollutant from such a source can go unregulated: As the Senate Report explained, Section 111(d) guarantees that "there should be no gaps in control activities pertaining to stationary source emissions that pose any significant danger to public health or welfare." S. Rep. No. 91–1196, p. 20 (1970). Reflecting that language, the majority calls Section 111(d) a "gap-filler." *Ante*, at 5. It might also be thought of as a backstop or catch-all provision, protecting against pollutants that the NAAQS and HAP programs let go by. But the section is *not*, as the majority further claims, an "ancillary provision" or a statutory "backwater." *Ante*, at 20, 26. That characterization is a non-sequitur. That something is a backstop does not make it a backwater. Even if they are needed only infrequently, see *ante*, at 6, 20, backstops can perform a critical function—and this one surely does. Again, Section 111(d) tells EPA that when a pollutant—like carbon dioxide—is not regulated through other programs, EPA must undertake a further regulatory effort to control that substance's emission from existing stationary sources. In that way, Section 111(d) operates to ensure that the Act achieves comprehensive pollution control.

Section 111 describes the prescribed regulatory effort in expansive terms. EPA must set for the relevant source

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(here, fossil-fuel-fired power plants) and the relevant pollutant (here, carbon dioxide) an emission level—more particularly,

> "the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the [EPA] Administrator determines has been adequately demonstrated." §7411(a)(1).

To take that language apart a bit, the provision instructs EPA to decide upon the "best system of emission reduction which . . . has been adequately demonstrated." The provision tells EPA, in making that determination, to take account of both costs and varied "nonair" impacts (on health, the environment, and the supply of energy). And the provision finally directs EPA to set the particular emissions limit achievable through use of the demonstrated "best system." Taken as a whole, the section provides regulatory flexibility and discretion. It imposes, to be sure, meaningful constraints: Take into account costs and nonair impacts, and make sure the best system has a proven track record.[1] But the core command—go find the best system of emission reduction—gives broad authority to EPA.

If that flexibility is not apparent on the provision's face, consider some dictionary definitions—supposedly a staple of this Court's supposedly textualist method of reading statutes. A "system" is "a complex unity formed of many often diverse parts subject to a common plan or serving a common purpose." Webster's Third New International Dictionary 2322 (1971). Or again: a "system" is "[a]n organized and

[1] Those constraints have had real effect: They have led EPA in prior rulemakings to exclude a number of pollution-control measures from the "best system of emission reduction." See Brief for United States 49 (collecting citations).

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coordinated method; a procedure." American Heritage Dictionary 1768 (5th ed. 2018). The majority complains that a similar definition—cited to the Solicitor General's brief but originally from another dictionary—is just too darn broad. *Ante*, at 28; see Brief for United States 31 (quoting Webster's New International Dictionary 2562 (2d ed. 1959)). "[A]lmost anything" capable of reducing emissions, the majority says, "could constitute such a 'system'" of emission reduction. *Ante*, at 28. But that is rather the point. Congress used an obviously broad word (though surrounding it with constraints, see *supra*, at 7) to give EPA lots of latitude in deciding how to set emissions limits. And contra the majority, a broad term is not the same thing as a "vague" one. *Ante*, at 18, 20, 28. A broad term is comprehensive, extensive, wide-ranging; a "vague" term is unclear, ambiguous, hazy. (Once again, dictionaries would tell the tale.) So EPA was quite right in stating in the Clean Power Plan that the "[p]lain meaning" of the term "system" in Section 111 refers to "a set of measures that work together to reduce emissions." 80 Fed. Reg. 64762. Another of this Court's opinions, involving a matter other than the bogeyman of environmental regulation, might have stopped there.

For generation shifting fits comfortably within the conventional meaning of a "system of emission reduction." Consider one of the most common mechanisms of generation shifting: the use of a cap-and-trade scheme. Here is how the majority describes cap and trade: "Under such a scheme, sources that receive a reduction in their emissions can sell a credit representing the value of that reduction to others, who are able to count it toward their own applicable emissions caps." *Ante*, at 8–9. Does that sound like a "system" to you? It does to me too. And it also has to this Court. In the past, we have explained that "[t]his type of 'cap-and-trade' *system* cuts costs while still reducing pollution to target levels." *EPA* v. *EME Homer City Generation, L. P.*, 572 U. S. 489, 503, n. 10 (2014) (emphasis added). So what does

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the majority mean when it says that "[a]s a matter of definitional *possibilities*, generation shifting *can* be described as a 'system'"? *Ante*, at 28 (emphasis added; citation and some internal quotation marks omitted). Rarely has a statutory term so clearly applied.

Other statutory provisions confirm the point. The Clean Air Act's acid rain provision, for example, describes a cap-and-trade program as an "emission allocation and transfer *system*." §7651(b) (emphasis added). So a "system," according to the statute's own usage, includes the kind of cap-and-trade mechanism that the Clean Power Plan relied on. And in a somewhat different way, the NAAQS provision shows that Section 111 encompasses such a regulatory technique. Under that provision, cap-and-trade schemes qualify as "control measures, means, or techniques" that state plans may use to reduce emissions. §7410(a)(2)(A). That language, of course, does not use the word "system." But in specifying that cap and trade is allowable under the NAAQS program, the provision supports the same conclusion here—because Section 111 directs EPA to use "a procedure similar to that provided by [the NAAQS]." §7411(d)(1). The majority discounts the relevance of both those provisions on the ground that they contemplate trading systems only "as a means of *complying* with an *already established emissions limit*." *Ante*, at 29 (emphasis in original). That is a distinction, to be sure. But to begin, it is far less of one than the majority thinks: In arguing that EPA's claim of authority here would allow it to take the emissions limit as low as it wants, the majority ignores the varied constraints surrounding the "best system" language. See *supra*, at 7. And still more important for interpretive purposes, the distinction appears only in the majority's opinion, not in any statutory language. That text, to the contrary, says to EPA: Do as you would do under the NAAQS and Acid Rain programs—go ahead and use cap and trade.

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There is also a flipside point: Congress declined to include in Section 111 the restrictions on EPA's authority contained in other Clean Air Act provisions. Most relevant here, quite a number of statutory sections confine EPA's emissions-reduction efforts to technological controls—essentially, equipment or processes that can be put into place at a particular facility. See *ante*, at 4 (describing those controls). So, for example, one provision tells EPA to set standards "reflect[ing] the greatest degree of emission reduction achievable through the application of technology." §7521(a)(3)(A)(i). Others direct the use of the "best available retrofit technology," or the "best available control technology," or the "maximum achievable control technology." §§7491(b)(2)(A), (g)(2), 7475(a)(4), 7479(3), 7412(g)(2). There are still more. See, *e.g.*, §§7411(h), 7511a(c)(7), 7651f(b)(2). None of those provisions would allow EPA to set emissions limits based on generation shifting, as the Agency acknowledges. See Brief for United States 32–33. But nothing like the language of those provisions is included in Section 111. That matters under normal rules of statutory interpretation. As Justice Scalia once wrote for the Court: "We do not lightly assume that Congress has omitted from its adopted text requirements that it nonetheless intends to apply, and our reluctance is even greater when Congress has shown elsewhere in the same statute that it knows how to make such a requirement manifest." *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335, 341 (2005).

Statutory history serves only to pile on: It shows that Congress has specifically declined to restrict EPA to technology-based controls in its regulation of existing stationary sources. The key moment came in 1977, when Congress amended Section 111 to distinguish between new sources and existing ones. For new sources, EPA could select only the "best *technological* system of continuous emission reduction." Clean Air Act Amendments, §109(c)(1)(A),

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91 Stat. 700 (emphasis added). But for existing sources, the word "technological" was struck out: EPA could select the "best system of continuous emission reduction." *Ibid.* The House Report emphasized Congress's deliberate choice: Whereas the standards set for new sources were to be based on "the best technological" controls, the "standards adopted for existing sources" were "to be based on available means of emission control (not necessarily technological)." H. R. Rep. No. 95–564, p. 129 (1977). The Report did not further explain the distinction. But presumably Congress gave EPA more flexibility over existing plants because imposing technological controls on old facilities is often not cost-effective.[2] Thirteen years later, Congress followed up by deleting from Section 111 the technological limitation applying to new facilities. See Clean Air Act Amendments of 1990, §403(a), 104 Stat. 2631. Once again, then, Congress faced a choice: confine EPA to technological controls, or not. And replicating its earlier action for existing sources, Congress chose not.

The majority breezes past that congressional choice on the ground that today's opinion does not resolve whether EPA can regulate in some non-technological ways; instead, the opinion says only that the Clean Power Plan goes too

[2] The majority offers a theory for why Congress insisted on a technological system for new sources: It was, the majority says, to prevent EPA's use of a particular kind of technological system (involving fuel switching) to achieve emissions reductions. See *ante*, at 22, n. 2, 23. To begin with: I don't see how requiring EPA to select among technological systems precludes it from picking what the majority agrees is one such measure. See *ante*, at 4, 22, n. 2, 22–23. But more important, I can't see why the majority's explanation matters. Let's assume the majority is right about Congress's motive. The key point remains the same: Whatever that motive, Congress's instruction to use technological systems applied only to new sources, and not to existing ones. As to the latter, Congress allowed EPA more latitude: The Agency could use technological *or* non-technological methods, as it preferred. That distinction is what creates interpretive difficulties for the majority—again, no matter why it arose.

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far. See *ante*, at 30–31. That is a puzzling point. As an initial matter, it recharacterizes what this case has always been about. The Trump administration repealed the Clean Power Plan for one central reason: because (in its view) Section 111 confines EPA to facility-specific, technological measures. See 84 Fed. Reg. 32523–32529. In reviewing that repeal, the court below thus addressed that limit alone. See *American Lung Assn.* v. *EPA*, 985 F. 3d 914, 944 (CADC 2021). So add to the oddity of the Court's declaring a defunct regulation unlawful, see *supra*, at 4, the irregularity of its suggesting some kind of non-technological limit that no one (not EPA, not the parties, not the court below) has ever considered. More important here, both the nature and the statutory basis of that limit are left a mystery. If the majority is not distinguishing between technological controls and all others, what is it doing—and how far does its opinion constrain EPA? The majority makes no effort to say. And because that is so, the majority cannot even attempt to ground its limit in the statutory language. I've just shown that restricting EPA to technological controls is inconsistent with Section 111, especially when read in conjunction with other statutory provisions. And the majority provides no reason to think that its (possibly) different limit fares any better. Section 111 does not impose *any* constraints—technological or otherwise—on EPA's authority to regulate stationary sources (except for those stated, like cost). In somehow (and to some extent) saying otherwise, the majority flouts the statutory text.

"Congress," this Court has said, "knows to speak in plain terms when it wishes to circumscribe, and in capacious terms when it wishes to enlarge, agency discretion." *Arlington* v. *FCC*, 569 U. S. 290, 296 (2013). In Section 111, Congress spoke in capacious terms. It knew that "without regulatory flexibility, changing circumstances and scientific developments would soon render the Clean Air Act obsolete." *Massachusetts*, 549 U. S., at 532. So the provision

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enables EPA to base emissions limits for existing stationary sources on the "best system." That system may be technological in nature; it may be whatever else the majority has in mind; or, most important here, it may be generation shifting. The statute does not care. And when Congress uses "expansive language" to authorize agency action, courts generally may not "impos[e] limits on [the] agency's discretion." *Little Sisters of the Poor Saints Peter and Paul Home* v. *Pennsylvania*, 591 U. S. ___, ___ (2020) (slip op., at 16). That constraint on judicial authority—that insistence on judicial modesty—should resolve this case.

II

The majority thinks not, contending that in "certain extraordinary cases"—of which this is one—courts should start off with "skepticism" that a broad delegation authorizes agency action. *Ante*, at 19. The majority labels that view the "major questions doctrine," and claims to find support for it in our caselaw. *Ante*, at 19–20, 28. But the relevant decisions do normal statutory interpretation: In them, the Court simply insisted that the text of a broad delegation, like any other statute, should be read in context, and with a modicum of common sense. Using that ordinary method, the decisions struck down agency actions (even though they plausibly fit within a delegation's terms) for two principal reasons. First, an agency was operating far outside its traditional lane, so that it had no viable claim of expertise or experience. And second, the action, if allowed, would have conflicted with, or even wreaked havoc on, Congress's broader design. In short, the assertion of delegated power was a misfit for both the agency and the statutory scheme. But that is not true here. The Clean Power Plan falls within EPA's wheelhouse, and it fits perfectly—as I've just shown—with all the Clean Air Act's provisions. That the Plan addresses major issues of public policy does not upend the analysis. Congress wanted EPA to do just that.

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Section 111 entrusts important matters to EPA in the expectation that the Agency will use that authority to combat pollution—and that courts will not interfere.

A

"[T]he words of a statute," as the majority states, "must be read in their context and with a view to their place in the overall statutory scheme." *FDA* v. *Brown & Williamson Tobacco Corp.*, 529 U. S. 120, 133 (2000); see *ante*, at 16. We do not assess the meaning of a single word, phrase, or provision in isolation; we also consider the overall statutory design. And that is just as true of statutes broadly delegating power to agencies as of any other kind. In deciding on the scope of such a delegation, courts must assess how an agency action claimed to fall within the provision fits with other aspects of a statutory plan.

So too, a court "must be guided to a degree by common sense as to the manner in which Congress is likely to delegate." *Brown & Williamson*, 529 U. S., at 133. Assume that a policy decision, like this one, is a matter of significant "economic and political magnitude." *Ibid.* We know that Congress delegates such decisions to agencies all the time—and often via broadly framed provisions like Section 111. See *infra*, at 29–31. But Congress does so in a sensible way. To decide whether an agency action goes beyond what Congress wanted, courts must assess (among other potentially relevant factors) the nature of the regulation, the nature of the agency, and the relationship of the two to each other. See, *e.g.*, *Barnhart* v. *Walton*, 535 U. S. 212, 222 (2002). In particular, we have understood, Congress does not usually grant agencies the authority to decide significant issues on which they have no particular expertise. So when there is a mismatch between the agency's usual portfolio and a given assertion of power, courts have reason to question whether Congress intended a delegation to go so far.

The majority today goes beyond those sensible principles.

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It announces the arrival of the "major questions doctrine," which replaces normal text-in-context statutory interpretation with some tougher-to-satisfy set of rules. *Ante*, at 16–31. Apparently, there is now a two-step inquiry. First, a court must decide, by looking at some panoply of factors, whether agency action presents an "extraordinary case[]." *Ante*, at 17; see *ante*, at 20–28. If it does, the agency "must point to clear congressional authorization for the power it claims," someplace over and above the normal statutory basis we require. *Ante*, at 19 (internal quotation marks omitted); see *ante*, at 28–31. The result is statutory interpretation of an unusual kind. It is not until page 28 of a 31-page opinion that the majority begins to seriously discuss the meaning of Section 111. And even then, it does not address straight-up what should be the question: Does the text of that provision, when read in context and with a common-sense awareness of how Congress delegates, authorize the agency action here?

The majority claims it is just following precedent, but that is not so. The Court has never even used the term "major questions doctrine" before. And in the relevant cases, the Court has done statutory construction of a familiar sort. It has looked to the text of a delegation. It has addressed how an agency's view of that text works—or fails to do so—in the context of a broader statutory scheme. And it has asked, in a common-sensical (or call it purposive) vein, about what Congress would have made of the agency's view—otherwise said, whether Congress would naturally have delegated authority over some important question to the agency, given its expertise and experience. In short, in assessing the scope of a delegation, the Court has considered—without multiple steps, triggers, or special presumptions—the fit between the power claimed, the agency claiming it, and the broader statutory design.

The key case here is *FDA* v. *Brown & Williamson*. There, the Food and Drug Administration (FDA) asserted that its

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power to regulate "drugs" and "devices" extended to tobacco products. The claim had something to it: FDA has broad authority over "drugs" and drug-delivery "devices," and the definitions of those terms could be read to encompass nicotine and cigarettes. But the asserted authority "simply [did] not fit" the overall statutory scheme. 529 U. S., at 143. FDA's governing statute required the agency to ensure that regulated products were "safe" to be marketed—but there was no making tobacco products safe in the usual sense. *Id.*, at 133–143. So FDA would have had to reinterpret what it meant to be "safe," or else ban tobacco products altogether. *Ibid.* Both options, the Court thought, were preposterous. Until the agency action at issue, tobacco products hadn't been spoken of in the same breath as pharmaceuticals (FDA's paradigmatic regulated product). And Congress had created in several statutes a "distinct regulatory scheme" for tobacco, not involving FDA. *Id.*, at 155–156. So all the evidence was that Congress had never meant for FDA to have any—let alone total—control over the tobacco industry, with its "unique political history." *Id.*, at 159. Again, there was "simply" a lack of "fit" between the regulation at issue, the agency in question, and the broader statutory scheme. *Id.*, at 143.

The majority's effort to find support in *Brown & Williamson* for its interpretive approach fails. See *ante*, at 19. It may be helpful here to quote the full sentence that the majority quotes half of. "In extraordinary cases," the Court stated, "there may be reason to hesitate before concluding that Congress has intended such an implicit delegation." 529 U. S., at 159. For anyone familiar with this Court's *Chevron* doctrine, that language will ring a bell. The Court was saying only—and it was elsewhere explicit on this point—that there was reason to hesitate before giving FDA's position *Chevron* deference. See *id.*, at 132–133, 159–161. And what was that reason? The Court went on to explain that it would not defer to FDA because it read

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the relevant statutory provisions as negating the agency's claimed authority. See *id.*, at 160 ("[W]e are obliged to defer not to the agency's expansive construction of the statute, but to Congress' consistent judgment to deny the FDA this power"); *id.*, at 133 (finding at *Chevron*'s first step that "Congress has directly spoken to the issue here and precluded the FDA's" asserted power). In reaching that conclusion, the Court relied (as I've just explained) not on any special "clear authorization" demand, but on normal principles of statutory interpretation: look at the text, view it in context, and use what the Court called some "common sense" about how Congress delegates. *Ibid.* *That* is how courts are to decide, in the majority's language, whether an agency has asserted a "highly consequential power beyond what Congress could reasonably be understood to have granted." *Ante*, at 20.

The Court has applied the same kind of analysis in subsequent cases—holding in each that an agency exceeded the scope of a broadly framed delegation when it operated outside the sphere of its expertise, in a way that warped the statutory text or structure. In *Gonzales* v. *Oregon*, 546 U. S. 243 (2006), we rejected the Attorney General's assertion of authority (under a broad "public interest" standard) to rescind doctors' registrations for facilitating assisted suicide, even in States where doing so was legal. See *id.*, at 243, 248–249, 261–275. We doubted Congress would have delegated such a "quintessentially medical judgment[]" to "an executive official who lacks medical expertise." *Id.*, at 266–267. And we pointed to statutory provisions in which Congress—in opposition to the claimed power—had "painstakingly described the Attorney General's limited authority" to deregister physicians. *Id.*, at 262.[3]

[3] Similarly, in *King* v. *Burwell*, 576 U. S. 473 (2015), we relied on *Brown & Williamson* in declining to defer to the Internal Revenue Service's construction of the Affordable Care Act. We thought it highly "unlikely that Congress would have delegated" an important decision about

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Later, in *Utility Air Regulatory Group* v. *EPA*, 573 U. S. 302 (2014), the Court relied on similar reasoning to reject EPA's efforts to regulate "millions of small" and previously unregulated sources of emissions—"including retail stores, offices, apartment buildings, shopping centers, schools, and churches." *Id.*, at 328. Key to that decision was the Court's view that reading the delegation so expansively would be "inconsistent with" the statute's broader "structure and design." *Id.*, at 321. The Court explained that allowing the agency action to proceed would necessitate the "rewriting" of other "unambiguous statutory terms"—indeed, of "precise numerical thresholds." *Id.*, at 321, 325–326. (In quoting one cryptic sentence of *Utility Air* as supporting its new approach, see *ante*, at 19, the majority ignores the nine preceding pages of analysis of the statute's text and context, see 573 U. S., at 315–324.)

And last Term, the Court concluded that the Centers for Disease Control and Prevention (CDC) lacked the power to impose a nationwide eviction moratorium. *Alabama Assn. of Realtors* v. *Department of Health and Human Servs.*, 594 U. S. ___, ___–___ (2021) (slip op., at 5–7). The Court held that other statutory language made it a "stretch" to read the relied-on delegation as covering the CDC's action. *Id.*, at ___ (slip op., at 6). And the Court raised an eyebrow at the thought of the CDC "intrud[ing]" into "the landlord-tenant relationship"—a matter outside the CDC's usual "domain." *Ibid.*[4]

The eyebrow-raise is indeed a consistent presence in these cases, responding to something the Court found anomalous—looked at from Congress's point of view—in a

healthcare pricing to an agency with "no expertise in crafting health insurance policy." 576 U. S., at 486.

[4] Not every Justice, of course, agreed with the Court's conclusions in the above-discussed cases; to be frank, I dissented in a couple. But what matters here is the analysis those decisions undertook—and how, as I'll describe, it supports EPA's Clean Power Plan.

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particular agency's exercise of authority. In each case, the Court thought, the agency had strayed out of its lane, to an area where it had neither expertise nor experience. The Attorney General making healthcare policy, the regulator of pharmaceutical concerns deciding the fate of the tobacco industry, and so on. And in each case, the proof that the agency had roamed too far afield lay in the statutory scheme itself. The agency action collided with other statutory provisions; if the former were allowed, the latter could not mean what they said or could not work as intended. FDA having to declare tobacco "safe" to avoid shutting down an industry; or EPA having literally to change hard numbers contained in the Clean Air Act. There, according to the Court, the statutory framework was "not designed to grant" the authority claimed. *Utility Air*, 573 U. S., at 324. The agency's "singular" assertion of power "would render the statute unrecognizable to the Congress" that wrote it. *Ibid.* (internal quotation marks omitted).

B

The Court today faces no such singular assertion of agency power. As I have already explained, nothing in the Clean Air Act (or, for that matter, any other statute) conflicts with EPA's reading of Section 111. Notably, the majority does not dispute that point. Of course, it views Section 111 (if for unexplained reasons) as less clear than I do. Compare *ante*, at 28, with *supra*, at 7–9. But nowhere does the majority provide evidence from within the statute itself that the Clean Power Plan conflicts with or undermines Congress's design. That fact alone makes this case different from all the cases described above. As to the other critical matter in those cases—is the agency operating outside its sphere of expertise?—the majority at least tries to say something. It claims EPA has no "comparative expertise" in "balancing the many vital considerations of national policy" implicated in regulating electricity sources. *Ante*, at

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25–26. But that is wrong.

Start with what this Court has said before on the subject, reflecting Congress's view of the matter. About a decade ago, we recognized that Congress had "delegated to EPA" in Section 111 "the decision whether and how to regulate carbon-dioxide emissions from powerplants." *American Elec. Power*, 564 U. S., at 426. To stress the key word (because the majority seems to miss it, see *ante*, at 26–27): not merely "whether" but also "how." In making that delegation, we explained, Congress knew well what it was doing. Regulating power plant emissions is a complex undertaking. To do it right requires "informed assessment of competing interests": "Along with the environmental benefit potentially achievable, our Nation's energy needs and the possibility of economic disruption must weigh in the balance." 564 U. S., at 427; see §7411(a)(1) (instructing EPA to consider "energy requirements," "cost," and other factors). Congress specifically "entrust[ed] such complex balancing to EPA," because that "expert agency" has the needed "scientific, economic, and technological resources" to carry it out. 564 U. S., at 427–428. So the balancing—including of the Nation's "energy requirements"—that the majority says EPA has no "comparative expertise" in? §7411(a)(1); *ante*, at 25. We explained 11 short years ago, citing Congress, that it was smack in the middle of EPA's wheelhouse.

And we were right. Consider the Clean Power Plan's component parts—let's call them the what, who, and how—to see the rule's normalcy. The "what" is the subject matter of the Plan: carbon dioxide emissions. This Court has already found that those emissions fall within EPA's domain. We said then: "[T]here is nothing counterintuitive to the notion that EPA can curtail the emission of substances that are putting the global climate out of kilter." *Massachusetts*, 549 U. S., at 531. This is not the Attorney General regulating medical care, or even the CDC regulating landlord-

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tenant relations. It is EPA (that's the Environmental Protection Agency, in case the majority forgot) acting to address the greatest environmental challenge of our time. So too, there is nothing special about the Plan's "who": fossil-fuel-fired power plants. In *Utility Air*, we thought EPA's regulation of churches and schools highly unusual. See *supra*, at 18. But fossil-fuel-fired plants? Those plants pollute—a lot—and so they have long lived under the watchful eye of EPA. That was true even before EPA began regulating carbon dioxide. See *Train* v. *Natural Resources Defense Council, Inc.*, 421 U. S. 60, 78 (1975).

Finally, the "how" of generation shifting creates no mismatch with EPA's expertise. As the Plan noted, generation shifting has a well-established pedigree as a tool for reducing pollution; even putting aside other federal regulation, see *infra*, at 25–26, both state regulators and power plants themselves have long used it to attain environmental goals. See 80 Fed. Reg. 64664; Brief for Power Company Respondents 47; see also S. Breyer, Regulation and Its Reform 444, n. 1 (1982) (citing literature on the subject from the 1970s). The technique is, so to speak, a tool in the pollution-control toolbox. And that toolbox is the one EPA uses. So that Agency, more than any other, has the desired "comparative expertise." *Ante*, at 25. The majority cannot contest that point frontally: It knows that cap and trade and similar mechanisms are an ordinary part of modern environmental regulation. Instead, the majority protests that Congress would not have wanted EPA to "dictat[e]," through generation shifting, the "mix of energy sources nationwide." *Ante*, at 26. But that statement reflects a misunderstanding of how the electricity market works. *Every* regulation of power plants—even the most conventional, facility-specific controls—"dictat[es]" the national energy mix to one or another degree. That result follows because regulations affect costs, and the electrical grid works by taking up

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energy from low-cost providers before high-cost ones. Consider an example: Suppose EPA requires coal-fired plants to use carbon-capture technology. That action increases those plants' costs, and automatically (by virtue of the way the grid operates) reduces their share of the electricity market. So EPA is always controlling the mix of energy sources. In that sense (though the term has taken on a more specialized meaning), everything EPA does is "generation shifting." The majority's idea that EPA has no warrant to direct such a shift just indicates that courts sometimes do not really get regulation.[5]

Why, then, be "skeptic[al]" of EPA's exercise of authority? *Ante*, at 28. When there is no misfit, of the kind apparent in our precedents, between the regulation, the agency, and the statutory design? Although the majority offers a flurry of complaints, they come down in the end to this: The Clean Power Plan is a big new thing, issued under a minor statutory provision. See *ante*, at 20, 24, 26 (labeling the Plan "transformative" and "unprecedented" and calling Section 111(d) an "ancillary" "backwater"). I have already addressed the back half of that argument: In fact, there is

[5] The majority's only response to the argument above similarly reveals a misperception as to the practical impact of different regulatory techniques. According to the majority, there is an "obvious difference" between changing the energy mix by conventional technological regulation and doing so by measures like cap and trade. *Ante*, at 27, n. 4. But in fact there is not. As I'll detail later, generation shifting can effect a significant—or instead an insignificant—change in the energy mix; and the same is true of technological regulations. See *infra*, at 24–25. It all depends on the specifics: There is no necessary connection (in either direction) between the *kind* of regulation and the magnitude of its effect. For example, a rule requiring the use of carbon-capture technology would have shifted far more electricity production from coal-fired plants than the Clean Power Plan would have. See *ibid.* In suggesting that cap-and-trade programs are somehow more suspect, the majority merely serves to disadvantage what is often the smartest kind of regulation: market-based programs that achieve the biggest bang for the buck. That is why so many power companies are on EPA's side in this litigation.

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nothing insignificant about Section 111(d), which was intended to ensure that EPA would limit existing stationary sources' emissions of otherwise unregulated pollutants (however few or many there were). See *supra*, at 6. And the front half of the argument doesn't work either. The Clean Power Plan was not so big. It was not so new. And to the extent it was either, that should not matter.

As to bigness—well, events have proved the opposite: The Clean Power Plan, we now know, would have had little or no impact. The Trump administration's repeal of the Plan created a kind of controlled experiment: The Plan's "magnitude" (*ante*, at 24) could be measured by seeing how far short the industry fell of the Plan's nationwide emissions target. Except that turned out to be the wrong question, because the industry didn't fall short of the Plan's goal; rather, the industry exceeded that target, all on its own. See App. 265 (declaration of EPA official). And it did so mainly through the generation-shifting techniques that the Plan called for. See *ibid.*; Brief for United States 47. In effect, the Plan predicted market behavior, rather than altered it (as regulations usually do). Cf. *Utility Air*, 573 U. S., at 321–322 (discussing the "calamitous consequences" of the EPA approach there under review). And that fact has been understood for some years. At the time of the repeal, the Trump administration explained that "there [was] likely to be no difference between a world where the [Clean Power Plan was] implemented and one where it [was] not." 84 Fed. Reg. 32561.[6] It is small wonder, then, that the power

[6] Even when the Clean Power Plan was first issued, its projected impact was far less than what the majority implies. The majority states, for example, that the rule would have "reduce[d] GDP by at least a trillion 2009 dollars by 2040." *Ante*, at 10. That sounds like a lot, but it is in fact "equivalent to changes of a few tenths of 1 percent from baseline." Dept. of Energy, Analysis of the Impacts of the Clean Power Plan 63–64 (2015). And the "billions of dollars in compliance costs" the majority highlights were vastly outweighed by the Plan's projected benefits. *Ante*, at 10; see 80 Fed. Reg. 64679 (anticipating $5–$8 billion in costs and

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industry overwhelmingly supports EPA in this case. See Brief for Power Company Respondents 2–3. In the regulated parties' view, the rule aimed to achieve what most power companies also want: substantial reductions in carbon dioxide emissions accomplished in a cost-effective way while maintaining a reliable electricity market. See *id.*, at 26–27, 38, 41–42.

The majority thus pivots to the massive consequences generation shifting *could* produce—but that claim fares just as poorly. On EPA's view of its own authority, the majority worries, some future rule might "forc[e] coal plants to 'shift' away virtually all of their generation—*i.e.*, to cease making power altogether." *Ante*, at 24. But looking at the text of Section 111(d) might here come in handy. For the statute imposes, as already shown, a set of constraints—particularly involving costs and energy needs—that would preclude so extreme a regulation. See Brief for United States 41–42 (conceding the point); *supra*, at 7. And if the majority thinks those constraints do not really constrain, then it has a much bigger problem. For "traditional" technological controls, of the kind the majority approves, can have equally dramatic effects. *Ante*, at 23. Take, for example, the "fuel-switching" regulation the majority mentions. *Ibid.* Such a rule does just what you might think: It requires a plant to burn a different kind of fuel—say, natural gas instead of coal. So it too can significantly "restructur[e] the Nation's overall mix of electricity generation." *Ante*, at 16. Or take an even more technological-sounding approach: the use of carbon-capture equipment. Order the installation of that equipment, the Trump administration concluded, and the "exorbitant" costs "would almost certainly force the closure" of all affected "coal-fired power plants." 84 Fed. Reg. 32548.

$32–$54 billion in benefits by 2030); see also EPA, Regulatory Impact Analysis for the Clean Power Plan Final Rule 6–35 (2015) (estimating that by 2030 jobs gained from the Plan would be some two or three times greater than jobs lost).

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The point is a simple one: If generation shifting can go big, so too can technological controls (assuming, once again, that the statute's text is ignored). The problem (if any exists) is not with the channel, but with the volume.[7]

The majority's claim about the Clean Power Plan's novelty—the most fleshed-out part of today's opinion, see *ante*, at 20–24—is also exaggerated. As EPA explained when it issued the Clean Power Plan, an earlier Section 111(d) regulation had determined that a cap-and-trade program was the "best system of emission reduction" for mercury. 70 Fed. Reg. 28616–28621 (2005); see 80 Fed. Reg. 64772. In the majority's view, that rule was different because the "actual emission cap" for the contemplated cap-and-trade scheme was based on the use of a plant-specific technology—namely, wet scrubbers. *Ante*, at 21 (internal quotation marks omitted). But the approval of cap and trade allowed EPA to make the emissions limits more stringent than it otherwise could have, because EPA knew that plants unable to cost-effectively install scrubbers could instead meet the limits through generation shifting. See 70 Fed. Reg. 28619. EPA could have designed the Clean Power Plan in the same way—say, by setting emissions limits based on carbon-capture technology, with the expectation that many plants would avail themselves of an approved cap-and-trade program instead. The majority gives no reason to think Section 111(d) allows that approach but disallows the Clean Power Plan. In both, generation shifting is

[7] The majority dismisses these hypotheticals as fantastical, protesting that "EPA has never ordered anything remotely like [them], and we doubt it could." *Ante*, at 24, n. 3. But that's just the point. EPA hasn't forced the elimination of coal plants—whether through technological controls or generation shifting—*because* the statutory constraints prevent it from doing so. The majority offers no reason to think that those constraints suffice for the measures it approves (fuel switching and carbon capture) but not for the measure it rejects (generation shifting). Either the constraints are enough or they are not. The majority cannot have it both ways.

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operating to increase the strictness of emissions limits.

And the mercury rule itself was rooted in precedent. A decade earlier, EPA had determined that States could comply with a Section 111(d) regulation for municipal waste combustors by establishing cap-and-trade programs. See 40 CFR §§60.30a, 60.33b(d)(2) (1996). And beyond Section 111(d), trading and other tools of generation shifting become still more common. For decades, EPA has relied on those pollution-control techniques in rules covering new internal-combustion engines under Section 111(b), sources of nitrogen oxide under the NAAQS program, and motor vehicles under Section 202(a). See 73 Fed. Reg. 3595 (2008); 71 Fed. Reg. 39159 (2006); 63 Fed. Reg. 57358–57359 (1998); 48 Fed. Reg. 33456 (1983); see also Brief for Richard L. Revesz as *Amicus Curiae* 24–29 (collecting similar rules). No doubt the majority is right that scrubbers and other "add-on controls" are "more traditional air pollution control measures." *Ante*, at 23. EPA readily acknowledged that fact in developing the Clean Power Plan. But the idea that the Plan's reliance on generation shifting effected some kind of revolution in power-plant pollution control? No. As I've noted before, power plants themselves use that method. State environmental regulators use that method. And EPA has used that method, including under the statutory provision invoked here.

In any event, newness might be perfectly legitimate—even required—from Congress's point of view. I do not dispute that an agency's longstanding practice may inform a court's interpretation of a statute delegating the agency power. See *ante*, at 20–21. But it is equally true, as *Brown & Williamson* recognized, that agency practices are "not carved in stone." 529 U. S., at 156–157 (internal quotation marks omitted). Congress makes broad delegations in part so that agencies can "adapt their rules and policies to the demands of changing circumstances." *Id.*, at 157. To keep

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faith with that congressional choice, courts must give agencies "ample latitude" to revisit, rethink, and revise their regulatory approaches. *Ibid.* So it is here. Section 111(d) was written, as I've shown, to give EPA plenty of leeway. See *supra*, at 6–8. The enacting Congress told EPA to pick the "best system of emission reduction" (taking into account various factors). In selecting those words, Congress understood—it had to—that the "best system" would change over time. Congress wanted and instructed EPA to keep up. To ensure the statute's continued effectiveness, the "best system" should evolve as circumstances evolved—in a way Congress knew it couldn't then know. See *Massachusetts*, 549 U. S., at 532. EPA followed those statutory directions to the letter when it issued the Clean Power Plan. It selected a system (as the regulated parties agree) that achieved greater emissions reductions at lower cost than any technological alternative could have, while maintaining a reliable electricity market. Even if that system was novel, it was in EPA's view better—actually, "best." So it was the system that accorded with the enacting Congress's choice.

And contra the majority, it is that Congress's choice which counts, not any later one's. The majority says it "cannot ignore" that Congress in recent years has "considered and rejected" cap-and-trade schemes. *Ante*, at 27–28. But under normal principles of statutory construction, the majority *should* ignore that fact (just as I should ignore that Congress failed to enact bills barring EPA from implementing the Clean Power Plan). As we have explained time and again, failed legislation "offers a particularly dangerous basis on which to rest an interpretation of an existing law a different and earlier Congress" adopted. *Bostock* v. *Clayton County*, 590 U. S. ___, ___ (2020) (slip op., at 20) (internal quotation marks omitted); see *Sullivan* v. *Finkelstein*, 496 U. S. 617, 632 (1990) (Scalia, J., concurring in part) ("Arguments based on subsequent legislative history" should "not

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be taken seriously, not even in a footnote"). Return to *Brown & Williamson*, which all agree is the key case in this sphere. It disclaimed any reliance on "Congress' failure" to grant FDA jurisdiction over tobacco. 529 U. S., at 155. Instead, the Court focused on the statutes Congress "*ha[d]* enacted," which created "a distinct regulatory scheme" for tobacco, incompatible with FDA's. *Ibid.* (emphasis added). Here, as I've shown and the majority effectively concedes, there is nothing equivalent. See *supra*, at 9–12. Search high and low, nothing in current law conflicts with, or otherwise casts doubt on, the Clean Power Plan. That leaves the Court in much the same place it was when deciding *Massachusetts* v. *EPA*. Said the Court then: "That subsequent Congresses have eschewed enacting binding emissions limitations to combat global warming tells us nothing about what Congress meant" when it enacted the Clean Air Act. 549 U. S., at 529–530. And so the Court recognized EPA's authority to regulate carbon dioxide. But that Court was not this Court; and this Court deprives EPA of the authority Congress gave it in Section 111(d) to respond to the same environmental danger.

III

Some years ago, I remarked that "[w]e're all textualists now." Harvard Law School, The Antonin Scalia Lecture Series: A Dialogue with Justice Elena Kagan on the Reading of Statutes (Nov. 25, 2015). It seems I was wrong. The current Court is textualist only when being so suits it. When that method would frustrate broader goals, special canons like the "major questions doctrine" magically appear as get-out-of-text-free cards.[8] Today, one of those broader goals

[8] The majority opinion at least addresses the statute's text, though overstating its ambiguity and approaching the action taken under it with unwarranted "skepticism." *Ante*, at 28; see *ante*, at 28–31. The concurrence, by contrast, concludes that the Clean Air Act does not clearly enough authorize EPA's Plan without ever citing the statutory text. See

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makes itself clear: Prevent agencies from doing important work, even though that is what Congress directed. That anti-administrative-state stance shows up in the majority opinion, and it suffuses the concurrence. See *ante*, at 19, 25–26; *e.g.*, *ante*, at 3–6 (GORSUCH, J., concurring).

The kind of agency delegations at issue here go all the way back to this Nation's founding. "[T]he founding era," scholars have shown, "wasn't concerned about delegation." E. Posner & A. Vermeule, Interring the Nondelegation Doctrine, 69 U. Chi. L. Rev. 1721, 1734 (2002) (Posner & Vermeule). The records of the Constitutional Convention, the ratification debates, the Federalist—none of them suggests any significant limit on Congress's capacity to delegate policymaking authority to the Executive Branch. And neither does any early practice. The very first Congress gave sweeping authority to the Executive Branch to resolve some of the day's most pressing problems, including questions of "territorial administration," "Indian affairs," "foreign and domestic debt," "military service," and "the federal courts." J. Mortenson & N. Bagley, Delegation at the Founding, 121 Colum. L. Rev. 277, 349 (2021) (Mortenson & Bagley). That Congress, to use a few examples, gave the Executive power to devise a licensing scheme for trading with Indians; to craft appropriate laws for the Territories; and to decide how to pay down the (potentially ruinous) national debt. See *id.*, at 334–338, 340–342, 344–345; C. Chabot, The Lost History of Delegation at the Founding, 56 Ga. L. Rev. 81, 113–134 (2021) (Chabot). Barely anyone objected on delegation grounds. See Mortenson & Bagley 281–282, 332, 339; Chabot 117–119; Posner & Vermeule 1733–1736.

It is not surprising that Congress has always delegated,

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ante, at 13–16. Nowhere will you find the concurrence ask: What does the phrase "best system of emission reduction" mean? §7411(a)(1). So much for "begin[ning], as we must, with a careful examination of the statutory text." *Henson* v. *Santander Consumer USA Inc.*, 582 U. S. 79, ___ (2017) (slip op., at 3).

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and continues to do so—including on important policy issues. As this Court has recognized, it is often "unreasonable and impracticable" for Congress to do anything else. *American Power & Light Co.* v. *SEC*, 329 U. S. 90, 105 (1946). In all times, but ever more in "our increasingly complex society," the Legislature "simply cannot do its job absent an ability to delegate power under broad general directives." *Mistretta* v. *United States*, 488 U. S. 361, 372 (1989). Consider just two reasons why.

First, Members of Congress often don't know enough—and know they don't know enough—to regulate sensibly on an issue. Of course, Members can and do provide overall direction. But then they rely, as all of us rely in our daily lives, on people with greater expertise and experience. Those people are found in agencies. Congress looks to them to make specific judgments about how to achieve its more general objectives. And it does so especially, though by no means exclusively, when an issue has a scientific or technical dimension. Why *wouldn't* Congress instruct EPA to select "the best system of emission reduction," rather than try to choose that system itself? Congress knows that systems of emission reduction lie not in its own but in EPA's "unique expertise." *Martin* v. *Occupational Safety and Health Review Comm'n*, 499 U. S. 144, 151 (1991).

Second and relatedly, Members of Congress often can't know enough—and again, know they can't—to keep regulatory schemes working across time. Congress usually can't predict the future—can't anticipate changing circumstances and the way they will affect varied regulatory techniques. Nor can Congress (realistically) keep track of and respond to fast-flowing developments as they occur. Once again, that is most obviously true when it comes to scientific and technical matters. The "best system of emission reduction" is not today what it was yesterday, and will surely be something different tomorrow. So for this reason too, a rational Congress delegates. It enables an agency to adapt

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old regulatory approaches to new times, to ensure that a statutory program remains effective. See, *e.g.*, *National Federation of Independent Business* v. *OSHA*, 595 U. S. ___, ___ (2022) (BREYER, SOTOMAYOR, and KAGAN, JJ., dissenting) (slip op., at 9) (observing that a statute's broad language was meant to ensure that an agency had "the tools needed to confront emerging dangers").

Over time, the administrative delegations Congress has made have helped to build a modern Nation. Congress wanted fewer workers killed in industrial accidents. It wanted to prevent plane crashes, and reduce the deadliness of car wrecks. It wanted to ensure that consumer products didn't catch fire. It wanted to stop the routine adulteration of food and improve the safety and efficacy of medications. And it wanted cleaner air and water. If an American could go back in time, she might be astonished by how much progress has occurred in all those areas. It didn't happen through legislation alone. It happened because Congress gave broad-ranging powers to administrative agencies, and those agencies then filled in—rule by rule by rule—Congress's policy outlines.

This Court has historically known enough not to get in the way. Maybe the best explanation of why comes from Justice Scalia. See *Mistretta*, 488 U. S., at 415–416 (dissenting opinion). The context was somewhat different. He was responding to an argument that Congress could not constitutionally delegate broad policymaking authority; here, the Court reads a delegation with unwarranted skepticism, and thereby artificially constrains its scope. But Justice Scalia's reasoning remains on point. He started with the inevitability of delegations: "[S]ome judgments involving policy considerations," he stated, "must be left to [administrative] officers." *Id.*, at 415. Then he explained why courts should not try to seriously police those delegations, barring—or, I'll add, narrowing—some on the ground that they went too far. The scope of delegations, he said,

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> "must be fixed according to common sense and the inherent necessities of the governmental co-ordination. Since Congress is no less endowed with common sense than we are, and better equipped to inform itself of the necessities of government; and since the factors bearing upon those necessities are both multifarious and (in the nonpartisan sense) highly political . . . it is small wonder that we have almost never felt qualified to second-guess Congress regarding the permissible degree of policy judgment that can be left to those executing or applying the law." *Id.*, at 416 (internal quotation marks omitted).

In short, when it comes to delegations, there are good reasons for Congress (within extremely broad limits) to get to call the shots. Congress knows about how government works in ways courts don't. More specifically, Congress knows what mix of legislative and administrative action conduces to good policy. Courts should be modest.

Today, the Court is not. Section 111, most naturally read, authorizes EPA to develop the Clean Power Plan—in other words, to decide that generation shifting is the "best system of emission reduction" for power plants churning out carbon dioxide. Evaluating systems of emission reduction is what EPA does. And nothing in the rest of the Clean Air Act, or any other statute, suggests that Congress did not mean for the delegation it wrote to go as far as the text says. In rewriting that text, the Court substitutes its own ideas about delegations for Congress's. And that means the Court substitutes its own ideas about policymaking for Congress's. The Court will not allow the Clean Air Act to work as Congress instructed. The Court, rather than Congress, will decide how much regulation is too much.

The subject matter of the regulation here makes the Court's intervention all the more troubling. Whatever else this Court may know about, it does not have a clue about

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how to address climate change. And let's say the obvious: The stakes here are high. Yet the Court today prevents congressionally authorized agency action to curb power plants' carbon dioxide emissions. The Court appoints itself—instead of Congress or the expert agency—the decision-maker on climate policy. I cannot think of many things more frightening. Respectfully, I dissent.

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Message

From: Millett, John [Millett.John@epa.gov]
Sent: 6/30/2022 5:43:37 PM
To: OAR Briefings [OAR_Briefings@epa.gov]
CC: Stevens, Katherine [stevens.katherine@epa.gov]
Subject: FW: EPA Administrator Regan Issues Statement on West Virginia v. Environmental Protection Agency

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From: Carroll, Timothy <Carroll.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 1:42 PM
To: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>; HQ Communications Directors <HQCommunicationsDirectors@epa.gov>
Cc: OPA Non-Career <OPA_Non-Career@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Gillespie, Taylor <Gillespie.Taylor@epa.gov>
Subject: FW: EPA Administrator Regan Issues Statement on West Virginia v. Environmental Protection Agency

Hi all – we just released the Administrator's statement on WV v. EPA below, following the President's statement, which can be found here.

At this point, feel free to share this statement with regional press looking for comment. Please continue to send any additional questions to press@epa.gov.

Lindsay, Maria and I are here if you have any questions or concerns!

Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

From: EPA Press Office <Press@epa.gov>
Sent: Thursday, June 30, 2022 1:36 PM
To: EPA Press Office <Press@epa.gov>
Subject: EPA Administrator Regan Issues Statement on West Virginia v. Environmental Protection Agency

U.S. ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

EPA.GOV/NEWSROOM

EPA Administrator Regan Issues Statement on West Virginia v. Environmental Protection Agency

Contact: EPA Press Office, press@epa.gov

WASHINGTON (June 30, 2022) – Today, in response to the Supreme Court ruling in West Virginia v. Environmental Protection Agency, EPA Administrator Michael S. Regan issued the following statement:

"As a public health agency, EPA's number one responsibility is to protect people's health, especially those who are on the front lines of environmental pollution. Make no mistake: we will never waver from that responsibility.

While I am deeply disappointed by the Supreme Court's decision, we are committed to using the full scope of EPA's authorities to protect communities and reduce the pollution that is driving climate change. We will move forward to provide certainty and transparency for the energy sector, which will support the industry's ongoing efforts to grow our clean energy economy.

At this moment, when the impacts of the climate crisis are becoming ever more disruptive, costing billions of dollars every year from floods, wildfires, droughts and sea level rise, and jeopardizing the safety of millions of Americans, the Court's ruling is disheartening.

Ambitious climate action presents a singular opportunity to ensure U.S. global competitiveness, create jobs, lower costs for families, and protect people's health and wellbeing, especially those who've long suffered the burden of inaction. EPA will move forward with lawfully setting and implementing environmental standards that meet our obligation to protect all people and all communities from environmental harm."

EPA.GOV

West Virginia v. EPA Decision

SCOTUS rules against EPA in favor of West Virginia, thus removing the EPA's power to regulate emissions from power plants.

News Coverage Wednesday June 30th, 2022

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- Washington Post, June 30, 2022; [HYPERLINK "https://www.washingtonpost.com/politics/2022/06/30/supreme-court-epa-climate-change/"]
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- CNBC, June 30, 2022; [HYPERLINK "https://www.cnbc.com/2022/06/30/-supreme-court-says-epa-lacks-authority-on-climate-standards-for-power-plants.html"]
- Gizmodo, June 30, 2022; [HYPERLINK "https://gizmodo.com/supreme-court-west-virginia-epa-power-pollution-ruling-1849112254"]

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- Appalachian Voices, June 30, 2022; [HYPERLINK "https://appvoices.org/2022/06/30/statement-on-scotus-ruling-in-west-virginia-vs-epa/"]

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Robert Barnes, Dino Grandoni, Washington Post, June 30, 2022;

The Supreme Court on Thursday sharply cut back the Environmental Protection Agency's ability to reduce the carbon output of existing power plants, a blow to the Biden administration's plans for combating climate change.

The vote was 6 to 3, with Chief Justice John G. Roberts Jr. writing for the court's conservatives.

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible 'solution to the crisis of the day,' " Roberts wrote, referring to a court precedent. "But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme."

Justice Elena Kagan, writing for the dissenters, countered: "The Court appoints itself — instead of Congress or the expert agency — the decisionmaker on climate policy. I cannot think of many things more frightening."

The decision risks putting the United States even further off track from President Biden's goal of running the U.S. power grid on clean energy by 2035 — and making the entire economy carbon-neutral by 2050.

With higher seas, fiercer wildfires and other consequences of climate change apparent, the world is already in unprecedented territory. Biden hoped to lead by example to convince other countries to cut emissions and help the world keep warming under 1.5 degrees Celsius (2.7 degrees Fahrenheit).

Now such diplomacy has become more difficult for Biden, especially as countries scramble for new sources of oil and gas after Russia's invasion of Ukraine.

Biden said the ruling "is another devastating decision that aims to take our country backwards. While this decision risks damaging our nation's ability to keep our air clean and combat climate change, I will not relent in using my lawful authorities to protect public health and tackle the climate crisis."

The president said he will "continue using lawful executive authority, including the EPA's legally-upheld authorities," work with cities and states to pass laws and "keep pushing for additional Congressional action, so that Americans can fully seize the economic opportunities, cost-saving benefits, and security of a clean energy future."

President Biden speaks during the U.N. climate change summit in Glasgow, Scotland, in November. (Pool/Reuters)

The court was considering the powers granted by the Clean Air Act, which was written decades ago, before climate change was widely recognized as a worldwide crisis.

Environmentalists were alarmed by the court's decision.

Richard Lazarus, a Harvard environmental law professor, said in a statement that by insisting that an agency "can promulgate an important and significant climate rule only by showing 'clear congressional authorization' at a time when the Court knows that Congress is effectively dysfunctional, the Court threatens to upend the national government's ability to safeguard the public health and welfare at the very moment when the United States, and all nations, are facing our greatest environmental challenge of all: climate change."

Senate Minority Leader Mitch McConnell (R-Ky.) praised the ruling.

"The Court has undone illegal regulations issued by the EPA without any clear congressional authorization and confirmed that only the people's representatives in Congress — not unelected, unaccountable bureaucrats — may write our nation's laws," McConnell said in a statement.

The United States is the world's second-biggest annual emitter of greenhouse gases, and is responsible for a greater portion of historical emissions than any other nation.

West Virginia v. EPA is the latest battle pitting the coal industry and Republican-led states against a Democratic administration that proposes sweeping changes to the way the nation's power sector produces electricity, the nation's second-largest source of climate-warming pollution.

The Supreme Court in 2016 stopped the Obama administration's plan to drastically reduce power plants' carbon output. The plan never went into effect, but its emission-reduction goals were met ahead of schedule because of economic conditions that made coal-fired plants more expensive.

A more lenient plan was promulgated by the Trump administration, which said its reading of the law limited the EPA's actions to regulating emissions at a specific site instead of across the system, a restriction that has come to be known as "inside the fence."

But on the last day of the Trump administration, a divided panel of the U.S. Court of Appeals for the D.C. Circuit said that was an intentional "misreading" of the law.

"The EPA has ample discretion in carrying out its mandate," the decision concluded. "But it may not shirk its responsibility by imagining new limitations that the plain language of the statute does not clearly require."

As a result, the Trump rules were struck, the Obama rules were not reinstated, and the Biden administration has yet to formulate its plan.

For that reason, the administration and environmentalists were stunned when the Supreme Court took the case. The Biden administration advised it to simply vacate the D.C. appeals court decision and wait to make a more intensive review of the EPA's powers after new regulations were proposed.

The case deeply divided the business community. Mining companies and other firms in the coal sector urged the court to rein in the EPA, arguing coal is necessary for keeping electricity prices low and the grid reliable. Apple, Tesla and other major tech and retail firms investing in renewable energy, meanwhile, told the court that "stable, nationwide rules" are needed to avert climate disaster.

The consolidated cases are known as West Virginia v. EPA.

[HYPERLINK "https://www.wsj.com/articles/supreme-court-limits-environmental-protection-agencys-authority-11656598034?mod=hp_lead_pos1"]

Jan Wolfe, Timothy Puko, Wall Street Journal, June 30, 2022;

WASHINGTON—The Supreme Court dealt a major blow to federal regulators as its term ended Thursday, with its conservative majority reining in the Biden administration's authority to address issues such as climate change and the coronavirus pandemic.

In a blockbuster 6-3 decision, the court said an Obama-era plan to limit emissions from coal power plants was unlawful. Chief Justice John Roberts's decision for the majority said the Environmental Protection Agency had exceeded its authority when it devised the regulatory scheme, known as the Clean Power Plan.

The court said that when federal agencies issue regulations with sweeping economic and political consequences—in this case, rules to address climate change—the regulations are presumptively invalid unless Congress has specifically authorized the action.

"A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body," the chief justice wrote, faulting the EPA for finding new powers in "the vague language of a long-extant, but rarely used, statute."

President Biden called the court's ruling "a devastating decision that aims to take our country backwards."

"I have directed my legal team to work with the Department of Justice and affected agencies to review this decision carefully and find ways that we can, under federal law, continue protecting Americans from harmful pollution, including pollution that causes climate change," Mr. Biden said.

The principle articulated by the court, known as the "major questions doctrine," was mentioned in earlier cases but is being recognized more explicitly now, said Gautam Hans, a law professor at Vanderbilt University.

"The court has now really explicitly relied on this doctrine to limit the EPA's authority, and other regulatory agencies are going to be more cautious now that they have to navigate this," Mr. Hans said.

With Congress often mired in gridlock, Mr. Biden and his Democratic predecessors have used regulation instead of legislation to advance their policy agendas, Mr. Hans said.

"Now it's going to be much harder for those agency rules to survive judicial scrutiny," he added.

The EPA ruling is similar to the court's decision on the Biden administration's vaccine-or-testing mandate for large employers.

In that ruling, from January, the justices said the Occupational Safety and Health Administration (OSHA) had exceeded its authority.

"Although Congress has indisputably given OSHA the power to regulate occupational dangers, it has not given that agency the power to regulate public health more broadly," the majority said in an unsigned opinion.

In both cases, the court split along the usual ideological lines, with Chief Justice Roberts finding support from the other five conservatives on the court: Justices Clarence Thomas, Samuel Alito, Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett.

The Heritage Foundation, a conservative think tank, hailed Thursday's ruling.

"Today, the Supreme Court has taken a major step to restore representative government and require legislators, not bureaucrats, to make the major policy decisions affecting the lives of Americans," said the group's executive vice president, Derrick Morgan.

Scott Nelson, an attorney with Public Citizen, a nonprofit consumer-advocacy group, countered that the ruling would hurt consumers by undercutting federal agencies' attempts to protect them, while giving businesses and others who might oppose regulations a wide, new lane to challenge them.

"I would tend to expect that any kind of regulatory initiative that anybody has a stake in opposing is going to be characterized as a major question," Mr. Nelson said.

Most immediately, opponents are likely to bring up the issue in ongoing litigation against vaccine mandates for federal employees, he said. The Securities and Exchange Commission's proposal for climate-risk and emissions disclosures is another initiative that may be legally vulnerable because some justices may consider the topic odd for oversight from a financial regulator, he added.

In the case decided Thursday, West Virginia led a coalition of Republican-leaning states and coal producers that asked the Supreme Court to weigh in and clarify the limits of the EPA's authority.

For half a century, the Clean Air Act has directed the EPA to regulate stationary sources of air pollution that endanger "public health or welfare." The Obama-era Clean Power Plan, which never went into effect because it was blocked by the Supreme Court in an earlier case, extended that regulatory reach beyond the physical premises of a power plant to allow off-site methods to mitigate pollution.

The Trump administration in 2019 implemented a replacement rule that was more friendly to the coal industry. But in January 2021, on the last day of Mr. Trump's presidency, a federal appeals court in the District of Columbia struck down the replacement rule, providing the Biden administration with a clean slate to work from in devising its own carbon-emissions rules.

Justice Elena Kagan said in a dissent on Thursday that the Obama-era EPA had exercised broad authority given to it by Congress, and that the Supreme Court keeps thwarting the agency's lawful efforts to address a climate crisis.

"The Court appoints itself—instead of Congress or the expert agency—the decision-maker on climate policy," Justice Kagan wrote. "I cannot think of many things more frightening."

The dissent was joined by Justice Sonia Sotomayor and Justice Stephen Breyer, whose retirement became effective Thursday.

The decision is a warning to regulatory agencies that they should be wary of interpreting old laws to give them broad new powers, said Jonathan Adler, a professor at Case Western Reserve University School of Law.

"Finding dormant regulatory authority in pre-existing statutes is something the court disfavors," Mr. Adler said.

Katy Stech Ferek contributed to this article.

[HYPERLINK "https://www.newyorker.com/news/daily-comment/the-supreme-court-tries-to-overrule-the-climate"]
Bill McKibben, The New Yorker, June, 30, 2022
Credit where due: the Supreme Court's 6–3 ruling in West Virginia v. E.P.A. is the culmination of a five-decade effort to make sure that the federal government won't threaten the business status quo. Lewis Powell's famous memo, written in 1971, before he joined the Supreme Court—between the enactment of a strong Clean Air Act and a strong Clean Water Act, each with huge popular support—called on "businessmen" to stand up to the tide of voices "from the college campus, the pulpit, the media, the intellectual and literary journals, the arts and sciences, and from politicians" calling for progressive change. He outlined a plan for slowly rebuilding the power of industrial élites, almost all the elements of which were taken up by conservative movements over subsequent years: monitoring textbooks and TV stations, attacking left-wing faculty at universities, even building a publishing industry. ("The news stands—at airports, drugstores, and elsewhere—are filled with paperback and pamphlets advocating everything from revolution to erotic free love. One finds almost no attractive, well-written paperbacks or pamphlets on 'our side,' " Powell wrote, but he was able to imagine a day when the likes of Ann Coulter or Sean Hannity would reliably top the best-seller lists.)

Fatefully, he also wrote: "American business and the enterprise system have been affected as much by the courts as by the executive and legislative branches of government. Under our constitutional system, especially with an activist-minded Supreme Court, the judiciary may be the most important instrument for social, economic and political change." At the time he was writing, the "activist" court was standing up for things that most Americans wanted, such as clean air and water—and the right of women to control their own bodies. But the Supreme

Court, and hence the judiciary, has come under the control of the kind of men that Powell envisioned—he may not have envisioned women on the bench, but Amy Coney Barrett is otherwise his type of judge. And, with this ruling, they have taken more or less total control of Washington's ability to generate policy that might disrupt the status quo.

In essence, the ruling begins to strip away the power of agencies such as the E.P.A. to enforce policy: instead of allowing federal agencies to enforce, say, the Clean Air Act to clean the air, in this new dispensation, Congress would have to pass regulations that are much more explicit, as each new pollutant came to the fore. As West Virginia's attorney general explained, "What we're looking to do is to make sure that the right people under our constitutional system make the correct decisions . . . these agencies, these federal agencies, don't have the ability to act solely on their own without getting a clear statement from Congress. Delegation matters."

But, of course, the Court has also insured that "getting a clear statement from Congress" to address our deepest problems is essentially impossible. The decision in Citizens United v. F.E.C., in 2010, empowered corporations to game our political system at will. That explains, in part, why Congress has not passed a real climate bill in decades. The efforts that Democratic Administrations have made to try and control greenhouse gasses have mostly used provisions of the Clean Air Act because it is the last serious law of its kind that ever came to a President's desk (Nixon's, in this case).

A train of similar cases now approaches the high court—they would, for instance, make it all but impossible for the federal government to regulate tailpipe emissions or to consider the financial toll of climate change when deciding whether to approve a new pipeline. As the Times reported in a recent investigation, the plaintiffs in these cases "are supported by the same network of conservative donors who helped former President Donald J. Trump place more than 200 federal judges, many now in position to rule on the climate cases in the coming year."

And this new jurisprudence would, in turn, make it even harder to achieve any international progress on rising temperatures. If the United States—historically, the world's largest emitter of carbon—can't play a serious policy role, it won't play a serious leadership role. John Kerry, Biden's climate envoy, who has been trying to rally the world for more aggressive climate action, is running out of cards to play.

Given the record flooding in Asia, the record heat in the Mideast, the record fires in the Southwest, and the record rainfall in Yellowstone, there's a nihilist strain to this ruling. Be careful what you wish for: the biggest threat to corporate futures today is not a paperback about "erotic free love"; it's an out-of-control climate that will undercut financial stability. But the conservative drive to roll back federal power has long since become more ideological than practical; the right-wing luminary Grover Norquist updated Powell's plan for a feistier age,

when he said that he wanted to shrink the federal government to a size that he could then "drown in a bathtub." But drowning whole communities as the sea level inexorably rises?

And what about the large majority of Americans who want action on climate change, and the activist campaigners who have pushed that desire to the fore? Those activists have engaged with good faith over many years in an effort to use the latent power of the federal government to make necessary change, but now that effort seems less and less sensible. There remains an outside hope that the Build Back Better bill might still pick up fifty votes in the Senate before the fall, when Republicans could potentially regain control of Congress; the tax credits for renewable energy it contains would probably pass Supreme Court muster. But beyond that it's hard to see exactly what the point of demanding federal climate action is now; why march on the Capitol or the White House if the Supreme Court won't let elected leaders act even if they want to? And there's no real way to march on the Supreme Court—it exists outside the ambit of normal politics—though rulings like this will also raise the pressure to expand the size of the Court, if and when the Democrats have the votes to do so.

You could also hope that an engaged Federal Reserve might take action—as Aaron Regunberg pointed out in a recent article, Court precedent (for whatever that's still worth) might give the Fed some latitude. And state legislatures can act, too, though even there the Court may hem in their ability to, say, set mileage restrictions on cars—in fact, Republican attorneys general from around the country have already filed suit in the D.C. circuit court to do just that. (The D.C. circuit court contains new appointees such as Neomi Rao, who oversaw deregulation efforts in the Trump Administration before he offered her a seat on the bench.) Campaigners will keep trying to win elections, and to write policy, but it took Lewis Powell fifty years to win this fight, and it may take fifty years to win it back—and we do not have that kind of time in the fight against warming.

Wall Street may be the only other actor large enough to actually shift the momentum of our climate system. The pressure on banks, asset managers, and insurance companies will increase precisely because the Court has wrenched shut this other spigot. Convincing banks to stop funding Big Oil is probably not the most efficient way to tackle the climate crisis, but, in a country where democratic political options are effectively closed off, it may be the only path left.

[HYPERLINK "https://www.wboy.com/news/politics/west-virginia-v-epa-what-is-the-separation-of-powers/"]
Alexandra Weaver, WBOY, June 30, 2022;

CLARKSBURG, W.Va. (WBOY) — The Supreme Court Thursday ruled in favor of the Mountain State in West Virginia v. Environmental Protection Agency, concluding administrative agencies like the Environmental Protection Agency (EPA) don't have the authority to make decisions of "vast economic and political significance."

The case was centered around regulations that would have gone into effect under the Clean Power Plan, which was introduced in 2015, stayed by the Supreme Court in 2016 and repealed by the Trump administration in 2019.
The Clean Power Plan would have set emissions limits, and individual states would have had to set enforceable rules to keep power plants and other sources of energy at or under that limit.

The government projected that the effects would include:

Billions of dollars in compliance costs.
An increase in retail energy prices.
Retiring dozens of coal plants.
The elimination of tens of thousands of jobs.
The opinion, delivered by Chief Justice John Roberts, cites the major questions doctrine, saying federal agencies must point to "clear congressional authorization" for the authority they claim due to the separation of powers.
A Closer Look at Separation of Powers
Under the Constitution, the three co-equal branches of government have separate and specific responsibilities and authorities, and each branch has a method to "check" the others if it's believed one of the branches has overstepped its authority.

Legislative Branch (Congress: The House of Representatives and the Senate) — Responsible for:

Drafting bills.
Balancing the federal budget.
Confirming or rejecting nominations for heads of federal agencies, federal judges and the Supreme Court.
Formally declaring war.
Executive Branch (The President, Vice President and federal agencies, departments and committees and their heads, known as "The Cabinet") — Responsible for:

Carrying out and enforcing laws.
Serving as Commander in Chief of the Armed Forces.
Building and maintaining foreign relations.
Passing or vetoing legislation presented by Congress.
Judicial Branch (The Supreme Court of the United States, circuits of federal courts throughout the county and judicial agencies) — Responsible for:

Interpreting the meaning of laws.
Applying laws to individual cases.
Deciding if laws violate the Constitution, and staying or overturning them if they do.
The EPA and other federal agencies are within the Executive Branch, meaning it's their job to enforce laws, not enact them.

SCOTUS's opinion concludes that the emissions cap would have been an attempt at regulation by the EPA.

This ruling comes at a time when the role of federal agencies has become increasingly important. For example, the Centers for Disease Control's eviction moratorium during the COVID-19 pandemic.

That moratorium was left in place by the Supreme Court back in 2021, with Chief Justice Roberts siding with the court's loose constructionist, often called "liberal", minority to keep it in place.

[HYPERLINK "https://www.npr.org/2022/06/30/1103595898/supreme-court-epa-climate-change"]
Nina Totenberg, NPR, June 30, 2022
The U.S. Supreme Court on Thursday dealt a major blow to the Environmental Protection Agency's power to regulate carbon emissions that cause climate change. The decision by the conservative court majority sets the stage for further limitations on the regulatory power of other agencies as well.

By a vote of 6 to 3, the court said that any time an agency does something big and new – in this case addressing climate change – the regulation is presumptively invalid, unless Congress has specifically authorized regulating in this sphere.

At issue in the case were rules adopted by the Trump and Obama administrations and aimed at addressing the country's single-largest carbon emissions problem – from coal-fired power plants. The Obama plan was broad, the Trump plan narrow. The Obama plan didn't regulate only coal-fired plants. Instead, it set strict carbon limits for each state and encouraged the states to meet those limits by relying less on coal-fired power plants and more on alternative sources of energy – wind, solar, hydro-electric and natural gas. The goal of the plan was to produce enough electricity to satisfy U.S. demand in a way that lowered greenhouse emissions.

The concept worked so well that even after Obama's Clean Power Plan was temporarily blocked by the Supreme Court and then repealed by the Trump administration, most utilities continued to abandon coal because it was just too expensive, compared to other energy producing

methods. In fact, even without the regulation in place, the reduction targets for carbon emissions were met 11 years ahead of schedule.
Fearing the Obama approach might someday be revived, the coal industry, joined by West Virginia and 16 other states, went to court in support of the Trump plan and its more restrictive interpretation of the Clean Air Act. A federal appeals court in Washington, D.C., ruled against them in 2021.

But on Thursday, the Supreme Court sided with the coal industry, ruling that the Clean Air Act does not authorize anything other than direct regulation of coal-fired plants.

Writing for the court majority, Chief Justice John Roberts said that under what the court has recently called the "major questions doctrine," neither the EPA nor any other agency may adopt rules that are "transformational" to the economy — unless Congress has specifically authorized such a transformative rule to address a specific problem, like climate change.

In his opinion, Roberts wrote: In "certain extraordinary cases, both separation of powers principles and a practical understanding of legislative intent make us 'reluctant to read into ambiguous statutory text' the delegation claimed to be lurking there. Utility Air, 573 U. S., at 324. To convince us otherwise, something more than a merely plausible textual basis for the agency action is necessary. The agency instead must point to 'clear congressional authorization' for the power it claims."

Justice Elena Kagan wrote in her dissent: "Today, the court strips the EPA of the power Congress gave it to respond to the most pressing environmental challenge of our time. ... It deprives EPA of the power needed—and the power granted—to curb the emission of greenhouse gasses."

She was joined by the court's other two liberals.
The decision appears to enact major new limits on agency regulations across the economy, limits of a kind not imposed by the court for 75 years or more. The decision, for instance, casts a cloud of doubt over a proposed Securities and Exchange Commission rule that would require companies offering securities to the public to disclose climate-related risks – like severe weather events that have or likely will affect their business models. Also in jeopardy is a new interim rule adopted by the Federal Energy Regulatory Commission "aimed at treating greenhouse gas emissions and their contribution to climate change the same as all other environmental impacts [the Commission] considers."

The decision was a particularly bad omen for environmentalists. In a very real sense, it seemed to reject any holistic regulatory attempt to deal with climate change.

What's more, the way the court dealt with the case is an indication of its new and very muscular approach to regulations in general. After all, when the case was initially before the court, for all practical purposes, there was no regulation in place. The Obama rule had been put on hold by the court and then repealed by the Trump administration; the Trump rule had similarly been paused, and the Biden administration said it would not adopt either the Obama or Trump approach. So it would have been easy, indeed, even expected, that the Supreme Court would toss the whole case out and wait for a new rule to be adopted.

As Case Western Reserve professor Jonathan Adler put it, "The fact that the court took the case shows that these are justices in a hurry" – in a hurry to rewrite the nation's regulatory laws in a way not seen in three quarters of a century.

Harvard law professor Richard Lazarus had an even more ominous view. "By insisting that Congress must specifically authorize significant rules at a time when the justices know that Congress is effectively dysfunctional, the court threatens to upend the national government's ability to safeguard the public health and welfare." The court, he added, is taking these "dire" steps "at the very moment when the United States, and all nations, are facing our greatest environmental challenge of all: climate change."

[HYPERLINK "https://www.eenews.net/articles/supreme-court-curbs-epa-climate-authority/"]
Lesley Clark, E&E News, June 30, 2022

The Supreme Court ruled today that EPA is prohibited from broadly regulating greenhouse gas emissions from power plants.

The 6-3 ruling in West Virginia v. EPA, the most significant climate case in a decade, delivers a blow to President Joe Biden's efforts to tackle planet-warming emissions and make electricity generation carbon-free by 2035.

A coalition of Republican-led states and coal companies, led by West Virginia Attorney General Patrick Morrisey, had petitioned the justices to reverse a decision by the U.S. Court of Appeals for the District of Columbia Circuit that struck down the narrowly tailored Trump-era Affordable Clean Energy rule, which gutted the Obama administration's more expansive Clean Power Plan.

Conservative challengers argued that EPA had overstepped its authority in issuing the carbon rule. They said Congress had not given the agency the ability to write sweeping regulations to curb emissions from existing power plants.

The Supreme Court's decision last fall to take up the case shocked legal observers because the dispute is focused on a regulation that does not currently exist. After the D.C. Circuit ruling, Biden's EPA said it would not go back to the Clean Power Plan, whose goals were met more than a decade in advance — even though the 2015 rule never actually took effect.

EPA expects to issue its proposed power plant rule in March 2023 and will likely finalize the regulation in 2024.

The justices heard two hours of oral arguments in West Virginia v. EPA the same day a U.N. scientific report warned that the damaging effects of a warming planet will be worse than previously predicted and that governments aren't doing enough (Climatewire, March 1).

During arguments, some members of the court's conservative wing seemed open to putting limits on EPA's authority, but it was not clear whether they favored a more expansive ruling rejecting federal agencies' ability to craft regulations on issues of "vast economic and political significance" without specific direction from Congress.

[HYPERLINK "https://cei.org/blog/supreme-court-reins-in-the-administrative-state-in-west-virginia-v-epa/"]

Joel Zinberg, Competitive Enterprise Institute, June 30, 2022

The Supreme Court's decision today in West Virginia v. Environmental Protection Agency is an important brake on the administrative state that has inexorably grown since the New Deal. The Court held that in issuing new emission caps designed to remake the U.S. power generation industry in an Obama era Clean Power Plan, the Environmental Protection Agency (EPA) had exceeded the authority granted to it by Congress under the Clean Air Act. The Court concluded that this was just the latest in "a series of significant cases all addressing a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted."

The Court held that this is a "major case" in which the agency, claimed that a little-used statutory section that had always been more conservatively interpreted "empowers it to substantially restructure the American energy market." Significantly, in invalidating the agency action, the Court cited two recent cases in which it reversed obvious cases of administrative overreach during the pandemic.

In Alabama Association of Realtors v. Department of Health and Human Services, 141 S. Ct. 2485 (2021), the Centers for Disease Control and Prevention claimed that it had authority under the Public Health Service Act (42 U.S.C. 264(a)) to impose a nationwide moratorium on evictions of tenants. The Court articulated and applied the "major questions" doctrine: "We expect Congress to speak clearly when authorizing an agency to exercise powers of vast economic and political significance." A nationwide eviction moratorium certainly qualified as having vast economic and political significance, but nothing in the statute remotely addressed that sort of action. The Court therefore held that, "if a federally imposed eviction moratorium is to continue, Congress must specifically authorize it."

Similarly, the Court applied the major questions doctrine to invalidate the Occupational Safety and Health Administration's (OSHA) vaccine mandate for private workers. In National Federation of Independent Business v. Department of Labor, Occupational Safety and Health Administration, 142 S. Ct. 661 (2022) (quoting Alabama Association of Realtors), the Court decided (6-3) that OSHA had exceeded its authority under the Occupational Safety and Health Act (29 USC 651 et seq) by issuing an Emergency Temporary Standard requiring vaccination or testing in workplaces employing at least 100 people. The OSHA mandate impacted tens of millions of private workers and was clearly a major question of vast economic and political significance. But the OSHA Act did not plainly authorize it.

Today's decision reaffirms that this Supreme Court takes the language and structure of the Constitution seriously and will no longer automatically defer to federal agency statutory interpretations or exertions of broad authority. Whether it is during a public health or a climate "emergency," the Constitution places the ultimate policy making authority in Congress.

[HYPERLINK "https://www.cnn.com/2022/06/30/politics/read-west-virginia-v-epa/index.html"]

The Supreme Court on Thursday curbed the Environmental Protection Agency's ability to broadly regulate carbon emissions from existing power plants, a major defeat for the Biden administration's attempts to slash emissions at a moment when scientists are sounding alarms about the accelerating pace of global warming.

[HYPERLINK "https://www.latimes.com/politics/story/2022-06-30/supreme-court-rules-for-coal-producing-states-limits-epas-power-to-fight-climate-change"]

DAVID G. SAVAGE, Los Angeles Times, June 30, 2022

WASHINGTON — The Supreme Court ruled Thursday for the major coal-producing states and sharply limited the Biden administration's authority to restrict the carbon pollution that is causing global warming.

The justices agreed with lawyers for West Virginia and said Congress did not give environmental regulators broad authority to reshape the system for producing electric power by switching from coal to natural gas, wind turbines and solar energy.

The court split 6-3 in the case of West Virginia vs. EPA.

Writing for the majority, Chief Justice John G. Roberts Jr. said Congress, and not the EPA, has the authority to make decisions on fighting climate change.

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible solution to the crisis of the day," he wrote. "But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme. ... A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body."

The court's liberals, Justices Stephen Breyer, Sonia Sotomayor and Elena Kagan dissented.

"Today, the court strips the Environmental Protection Agency (EPA) of the power Congress gave it to respond to the most pressing environmental challenge of our time," Kagan wrote.

The ruling appears to allow for regulations focused narrowly on controlling pollution from smokestacks, but blocks broader rules that would set state-by-state targets for pollution and force a shift to other ways of producing electricity.

The outcome reflects the conservative court's skepticism of federal regulation, particularly when it appears to go beyond what Congress specifically authorized.

Environmentalists have called for regulations to fight climate change, but for more than 20 years Republicans in Congress have steadily opposed new legislation on the issue.

They had one solid precedent on their side. In 2007, the court ruled that greenhouse gases were air pollutants subject to regulation under the Clean Air Act of the 1970s. That decision

came on a 5-4 vote, with Roberts and Justices Clarence Thomas, Samuel A. Alito Jr. and the late Antonin Scalia in dissent.

Faced with the continuing deadlock in Congress, President Obama and his Environmental Protection Agency sought to combat climate change by regulating power plants, which are the largest source of greenhouse gases except for the transportation industry. The EPA relied on a provision in the Clean Air Act that called for reducing pollution through the "best system of emissions reduction."

Under Obama's plan, states would be required to reduce their pollution in the most effective way, including by switching from coal-fired power plants to using more solar and wind power. But in February 2016, a week before Scalia died, the court issued an order on a 5-4 vote that blocked Obama's plan from taking effect.

The Trump administration then decided Obama's plan exceeded the EPA's authority. Several blue states sued to challenge that conclusion, and they won in the U.S. appeals court in Washington, which ruled the EPA could adopt broad regulations.

Upon taking office, the Biden administration said it would devise a new set of regulations to reduce pollution from power plants. But before it could do so, West Virginia and 18 other Republican-controlled states urged the Supreme Court to clarify the law.

That set the stage for Thursday's ruling limiting the EPA's authority.

[HYPERLINK "https://www.wdtv.com/2022/06/30/state-leaders-react-supreme-court-ruling-that-limits-epas-regulation-clean-air-act/"]

WDTV News Staff, WDTV, June 30 2022

BRIDGEPORT, W.Va (WDTV) - The Supreme Court on Thursday limited how the nation's main anti-air pollution law can be used to reduce carbon dioxide emissions from power plants.

By a 6-3 vote, with conservatives in the majority, the court said that the Clean Air Act does not give the Environmental Protection Agency broad authority to regulate greenhouse gas emissions from power plants that contribute to global warming.

The court's ruling could complicate the administration's plans to combat climate change. Its proposal to regulate power plant emissions is expected by the end of the year.

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible 'solution to the crisis of the day,'" Chief Justice John Roberts wrote in his opinion for the court.

But Roberts wrote that the Clean Air Act doesn't give EPA the authority to do so and that Congress must speak clearly on this subject.

Governor Jim Justice said he applauds Thursday's Supreme Court decision.

I applaud the Supreme Court's decision today in West Virginia v. EPA.

This ruling in favor of West Virginia will stop unelected bureaucrats in Washington, D.C. from being able to unilaterally decarbonize our economy just because they feel like it. Instead, members of Congress who have been duly elected to represent the will of the people across all of America will be allowed to have a rightful say when it comes to balancing our desire for a clean environment with our need for energy and the security it provides us.

People like to say 'D.C. has too much power.' They're right. For too long, our federal bureaucracy has had almost unlimited, unchecked power over us with little accountability to the public. Agencies shouldn't get to make unilateral decisions affecting all of our lives without Congress's vote. That's what this case really does, it gives power back to the people.

West Virginia is one of the few states in the nation where all agency regulations must be approved by a vote of the state legislature before they take effect. I'm glad that the federal government will now be following the West Virginia model.

Senator Shelley Moore Capito said the decision proves the EPA overstepped its authority.

Today's decision by the Supreme Court is welcome news and further proves that EPA overstepped its authority by imposing enormously burdensome regulations on states to reconfigure our electric grid despite Congress's rejection. I congratulate Attorney General Morrisey for his leadership on this important victory for West Virginia and the entire nation, which ensures that EPA can never issue an overreaching regulation like the Clean Power Plan again. EPA must follow the law, and as Ranking Member of the Environment and Public Works Committee, I will continue to conduct oversight of EPA to make sure the agency does not attempt to devastate the people and industries of West Virginia as it did with the Clean Power Plan ever again.

West Virginia Attorney General Patrick Morrisey said this is a great win for West Virginia and the nation.

We are pleased this case returned the power to decide one of the major environmental issues of the day to the right place to decide it: the U.S. Congress, comprised of those elected by the people to serve the people. This is about maintaining the separation of powers, not climate change. Today, the Court made the correct decision to rein in the EPA, an unelected bureaucracy. And we're not done. My office will continue to fight for the rights of West Virginians when those in Washington try to go too far in asserting broad powers without the people's support.

Representative David McKinley said he is proud Patrick Morrisey led the effort on behalf of over 20 states.

West Virginians know better than most the cost of EPA overreach, and I am proud that West Virginia Attorney General Patrick Morrisey led the effort, on behalf of over 20 states, in the U.S. Supreme Court to protect our state's energy workers against the unelected bureaucrats who continue to wage war on American energy production.

The war Russia has instigated in Ukraine has made it clear that energy security is national security. Yet, the Biden administration has continued to restrict American energy producers and expand roadblocks for domestic energy production. We need to be focused on expanding energy production in America so we can regain our energy independence and lower prices at home and at the pump. The Supreme Court made the right decision to restrict the executive branch's regulatory overreach and restore the authority of Congress, which better reflects the interests of the American public.

Today's ruling is a major win for America's energy future and I am proud that West Virginia led the charge to restore the balance of power and prevent government overreach.

[HYPERLINK "https://apnews.com/article/supreme-court-epa-ruling-2e893673819a1b6c6aa272a5e814f0b0"]
Mark Sherman, AP, June 30, 2022
WASHINGTON (AP) — In a blow to the fight against climate change, the Supreme Court on Thursday limited how the nation's main anti-air pollution law can be used to reduce carbon dioxide emissions from power plants.

By a 6-3 vote, with conservatives in the majority, the court said that the Clean Air Act does not give the Environmental Protection Agency broad authority to regulate greenhouse gas emissions from power plants that contribute to global warming.

The court's ruling could complicate the administration's plans to combat climate change. Its proposal to regulate power plant emissions is expected by the end of the year.

President Joe Biden aims to cut the nation's greenhouse gas emissions in half by the end of the decade and to have an emissions-free power sector by 2035. Power plants account for roughly 30% of carbon dioxide output.

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible 'solution to the crisis of the day,'" Chief Justice John Roberts wrote in his opinion for the court.
But Roberts wrote that the Clean Air Act doesn't give EPA the authority to do so and that Congress must speak clearly on this subject.
"A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body," he wrote.

In a dissent, Justice Elena Kagan wrote that the decision strips the EPA of the power Congress gave it to respond to "the most pressing environmental challenge of our time."

Kagan said the stakes in the case are high. She said, "The Court appoints itself—instead of Congress or the expert agency—the decisionmaker on climate policy. I cannot think of many things more frightening."

The justices heard arguments in the case on the same day that a United Nations panel's report warned that the effects of climate change are about to get much worse, likely making the world sicker, hungrier, poorer and more dangerous in the coming years.

The power plant case has a long and complicated history that begins with the Obama administration's Clean Power Plan. That plan would have required states to reduce emissions from the generation of electricity, mainly by shifting away from coal-fired plants.

But that plan never took effect. Acting in a lawsuit filed by West Virginia and others, the Supreme Court blocked it in 2016 by a 5-4 vote, with conservatives in the majority.

With the plan on hold, the legal fight over it continued. But after President Donald Trump took office, the EPA repealed the Obama-era plan. The agency argued that its authority to reduce carbon emissions was limited and it devised a new plan that sharply reduced the federal government's role in the issue.

New York, 21 other mainly Democratic states, the District of Columbia and some of the nation's largest cities sued over the Trump plan. The federal appeals court in Washington ruled against both the repeal and the new plan, and its decision left nothing in effect while the new administration drafted a new policy.
Adding to the unusual nature of the high court's involvement, the reductions sought in the Obama plan by 2030 already have been achieved through the market-driven closure of hundreds of coal plants.

Power plant operators serving 40 million people called on the court to preserve the companies' flexibility to reduce emissions while maintaining reliable service. Prominent businesses that include Apple, Amazon, Google, Microsoft and Tesla also backed the administration.

Nineteen mostly Republican-led states and coal companies led the fight at the Supreme Court against broad EPA authority to regulate carbon output.

[HYPERLINK "https://www.vox.com/23181832/supreme-court-epa-west-virginia-climate-regulation"]
Umair Irfan and Neel Dhanesha, Vox, June 30, 2022
The Supreme Court on Thursday handed down a decision that says the Environmental Protection Agency does not have the power to regulate carbon dioxide emissions from power plants without authorization from Congress, drastically limiting the policy tools the EPA can use to address climate change.

The vote in the West Virginia v. EPA decision on Thursday was 6-3, with the Court's three liberal members dissenting. In the majority opinion, Chief Justice John Roberts wrote that the EPA "must point to 'clear congressional authorization' for the power it claims." He added, "Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of

coal to generate electricity may be a sensible 'solution to the crisis of the day, but it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme."

This ruling has implications not just for the government's ability to protect the environment but also for how much federal agencies can impose regulations at all.

"This court in one term has basically dismantled the administrative state," Rebecca Bratspies, a law professor at the City University of New York who studies environmental justice, said in an email.

The West Virginia case was always a bit bizarre. It centers on President Obama's Clean Power Plan, which aimed to cut greenhouse gas emissions from power plants, the second-largest source of carbon dioxide in the US. But the policy was replaced before it was implemented, and then its replacement was blocked by a federal appeals court. Meanwhile, there were questions about whether the Supreme Court even had jurisdiction to hear the case. As Vox's Ian Millhiser described it, West Virginia v. EPA is "a case about an environmental regulation that no longer exists, that never took effect, and that would not have accomplished very much if it had taken effect."

But the decision means that agencies like the EPA can't create regulations that have expansive social and economic impacts on their own, despite decades of precedent doing exactly that. Such rules would now require Congress to specifically create laws to implement them, and given the difficulty of passing any federal legislation, it would drastically impair the EPA's ability to regulate the pollution that's heating up the planet.

"Whatever else this court may know about, it does not have a clue about how to address climate change," wrote Justice Elena Kagan in her dissent. "The stakes here are high. Yet the Court today prevents congressionally authorized agency action to curb power plants' carbon dioxide emissions. The Court appoints itself — instead of Congress or the expert agency — the decisionmaker on climate policy. I cannot think of many things more frightening."

The West Virginia v. EPA decision is just the latest in a series of recent lawsuits and rulings that are eroding protection for air, water, and the climate. And they're part of an even broader conservative-led effort to weaken the government's ability to regulate anything.

"I do think that the West Virginia case can be seen as part of a larger trend directed at restricting the ability of EPA and other agencies to protect health, safety, and the environment," said William Boyd, an environmental law professor at the University of California Los Angeles. "This starts at the top with the Supreme Court, but it will ripple through the federal judiciary as decisions accumulate and the jurisprudence that has taken over the last half century to accommodate the regulatory state is diminished and hollowed out."

Many of these other cases are still underway, but depending on how they're decided, they could further erode the government's tools for addressing the most urgent environmental problems. But there are other ways to address environmental issues that remain intact, for now.

The West Virginia v. EPA decision joins a growing list of recent legal environmental attacks Under President Trump, the EPA launched a campaign to undo or undermine a long list of environmental regulations. In many cases, those actions were blocked by courts, including Trump's replacement for the Clean Power Plan at the center of the West Virginia v. EPA case.

But Trump managed to appoint more than 200 federal judges, including three Supreme Court justices, and the consequences are becoming apparent. With more favorable judges, some Republican state governments have seized the opportunity to challenge environmental laws.

Here are some of the recent legal challenges to the government's ability to protect the environment:

Republican attorneys general in 17 states sued the EPA in a bid to end California's waiver to the Clean Air Act, a law first enacted by Congress in 1963 that allows the state to set its own stringent emissions standards for cars and trucks. Transportation is the largest source of greenhouse gases in the US, and California's status as the most populous state and largest auto market makes it a de facto nationwide emissions policymaker.
Fourteen states sued the Biden administration in March to end a pause on new oil and gas leasing on federal lands, a core part of the president's climate agenda that would keep those fossil fuels in the ground.
The fossil fuel industry, right-wing groups, and Republican lawmakers are trying to block a new Securities and Exchange Commission rule that requires publicly traded corporations to disclose climate risks, which would give investors more insight into how climate change and extreme weather will affect a business in the short and medium term.
In October, the Supreme Court will hear oral arguments in a case that will decide whether wetlands are classified as "waters of the United States" that are regulated under the Clean Water Act. The ruling could have major ramifications for how the EPA and the US Army Corps of Engineers regulate pollution in American waterways.
These decisions stand to have negative impacts on the lives of Americans. That includes everything from more hospitalizations and deaths caused by air pollution to billions of dollars' worth of damages linked to extreme weather that US homes and infrastructure are not prepared for.

There are still other ways to advance environmental protections

Not every recent ruling has undermined environmental laws. In May, the Supreme Court upheld using the social cost of carbon as a basis for regulations on climate change. The social cost of carbon puts a dollar amount on the amount of damage to society that occurs from emitting one ton of carbon dioxide.

But rather than counting on the goodwill of judges going forward, there are other levers the Biden administration can pull to advance its environmental agenda.

For example, under the Toxic Substances Control Act of 1976 and its 2016 update, the Lautenberg Chemical Safety Act, the EPA can evaluate and regulate both new and existing chemicals that can be risks to human health and the environment. Since warming from greenhouse gases threatens health, this could be a potential tool to limit carbon dioxide.

Alternatively, through a bit of clever legal maneuvering, the EPA could (theoretically) lean on another provision in the Clean Air Act to keep greenhouse gases in check. As the Brookings Institution explained in 2016, Section 115 of the Clean Air Act compels the EPA to watch for instances where pollution from the United States may "endanger" the citizens of other countries. If those countries, in turn, take steps to ensure their emissions don't harm the United States, the EPA must inform the governors of the American states where those emissions originated so that they can take steps to bring those emissions down.

Legal scholars argue that since greenhouse gases contribute to the global problem of climate change, Section 115 gives the EPA broad authority to regulate those gases. Instead of the EPA making sector-wide regulations, which the Supreme Court's ruling invalidates, Section 115 works within the framework of State Implementation Plans, which are developed by states and aren't subjected to congressional oversight.

The Biden administration can also work with states to develop state-level environmental policies that, when put together, could have a similar effect to federal regulation from the EPA. Some states could become de facto rule-setters for industries with a large presence within their borders, similar to how California regulates vehicle emissions. But that process would be time-consuming, and the administration will no doubt find it difficult to get buy-in from states controlled by Republican legislators who deny the realities of climate change.

The White House is also using executive orders to advance climate policies. Earlier this month, President Biden announced he would use the Defense Production Act to build clean energy technologies, including solar panels and heat pumps. He's also signed executive orders to protect forests, to procure zero-emissions energy and vehicles, and to make climate change a priority in foreign policy. The downside of executive orders is that the next president could undo them.

Outside of the federal government, states also have the power to enact their own environmental policies, like renewable energy portfolio standards or trading greenhouse gas emissions credits.

But diminishing the EPA's authority to regulate emissions from power plants is still a blow to US climate change ambitions, leaving fewer options to deal with a mounting crisis as the window to act slams shut.

[HYPERLINK "https://www.axios.com/2022/06/30/west-virginia-epa-supreme-court-climate-change"]
Ben German, Andrew Freedman, Axios, June 30, 2022
The Supreme Court on Thursday imposed major constraints on the breadth of EPA's authority to limit carbon emissions from power plants.

Why it matters: The 6-3 ruling in West Virginia v. EPA will likely make it harder for the Biden administration to meet its climate targets — and may tie the hands of future administrations that want to take aggressive action on climate change.

The decision may also invite challenges to sweeping regulations imposed by other agencies, in a bid to constrain the bureaucracy writ large.
Driving the news: The court said EPA lacks wide latitude under the current Clean Air Act to force changes in the country's power mix that speed movement toward zero-carbon tech.

Instead, the court ruling holds that EPA should regulate emissions at the power plant level, rather than essentially setting up a national system that the opinion notes Congress has repeatedly failed to authorize.
"Congress did not grant EPA in Section 111(d) of the Clean Air Act the authority to devise emissions caps based on the generation shifting approach the Agency took in the Clean Power Plan," the conservative majority wrote in West Virginia v. EPA.
Chief Justice John Roberts wrote the opinion, joined by justices Samuel Alito, Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett. The three liberal justices, Elena Kagan, Sonia Sotomayor and Stephen Breyer, dissented.
The intrigue: In the dissenting opinion, Kagan took the majority to task for purporting to know how much authority Congress intended to give to EPA.

"Whatever else this Court may know about, it does not have a clue about how to address climate change," Kagan wrote. "And let's say the obvious: The stakes here are high. Yet the Court today prevents congressionally authorized agency action to curb power plants' carbon dioxide emissions."
"The Court appoints itself — instead of Congress or the expert agency — the decisionmaker on climate policy. I cannot think of many things more frightening."

The big picture: The new limits on executive power come as President Biden's huge clean energy investment package has stalled in Congress.

That puts a heavier burden on the federal agencies to cut planet-warming emissions with existing authorities, which now face new constraints.
The administration's climate goals include a 50% cut in economy-wide greenhouse gas emissions by 2030 and a fully decarbonized electricity sector by 2035.
Power plants are the second-largest source of U.S. greenhouse gas emissions.
The administration is in the process of writing regulations for these facilities.
The decision follows a major scientific report on the fast-closing window to prevent some of the most dangerous effects of global warming, which is already causing substantial harm.
Catch up fast: The case stems from lower court battles over Obama-era rules to cut carbon emissions from coal-fired power plants, and a more modest Trump-era replacement.

Neither regulation is in effect. But last year, GOP-led states and coal companies successfully petitioned the court to hear cases on the scope of EPA's power.
What we're watching: How EPA will seek to cut emissions from coal-fired power plants in light of the ruling.

In March, EPA Administrator Michael Regan said the agency's plans include indirectly tackling CO2 with rules that target air and water pollution.

[HYPERLINK "https://www.cnbc.com/2022/06/30/-supreme-court-says-epa-lacks-authority-on-climate-standards-for-power-plants.html"]

Emma Newburger, Dan Mangan, CNBC, June 30, 2022;

The Supreme Court on Thursday limited the Environmental Protection Agency’s authority to set standards on climate-changing greenhouse gas emissions for existing power plants.

In its 6-3 ruling, the Supreme Court said that Congress, not the EPA has that power.

The court’s ruling on the case affects the federal government’s authority to set standards for planet-warming pollutants like carbon dioxide from existing power plants under the landmark Clean Air Act.

The decision is a major setback for the Biden administration's agenda to combat climate change, specifically the goal to zero out carbon emissions from power plants by 2035 and cut in half the country's emissions by the end of the decade.

The case stems from the EPA's directive in 2015 to coal power plants to either reduce production or subsidize alternate forms of energy. That order was never implemented because it was immediately challenged in court.

Fossil fuel-fired power plants are the second-largest source of pollution in the U.S. behind transportation, according to the EPA. The U.S. is also the second-largest producer of greenhouse gases behind China, making it a key player in global efforts to combat climate change.

Chief Justice John Roberts wrote the majority opinion, in the case, known as West Virginia v. the Environmental Protection Agency, which was joined by the Supreme Court's other five conservative members.

The decision is the first time a majority opinion explicitly cited the so-called major questions doctrine to justify a ruling. That controversial doctrine holds that with issues of major national significance, a regulatory agency must have clear statutory authorization from Congress to take certain actions, and not rely on its general agency authority.

Roberts wrote, "There is little reason to think Congress assigned such decisions" about the regulations in question to the EPA, despite the agency's belief that "Congress implicitly tasked it, and it alone, with balancing the many vital considerations of national policy implicated in deciding how Americans will get their energy."

"Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible 'solution to the crisis of the day,' " Roberts wrote, "But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme."

He added: "A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body."

Justice Elena Kagan wrote a dissent, which was joined by the court's two other liberals.

"Today, the Court strips the Environmental Protection Agency (EPA) of the power Congress gave it to respond to 'the most pressing environmental challenge of our time, " Kagan wrote in that dissent.

"The Court appoints itself — instead of Congress or the expert agency—the decisionmaker on climate policy. I cannot think of many things more frightening," Kagan wrote.

She also said, "The majority claims it is just following precedent, but that is not so. The Court has never even used the term 'major questions doctrine' before."

Senate Majority Leader Chuck Schumer, D-N.Y., in a statement said, "Today's decision adds to a number of dangerously outrageous decisions that have rightly tarnished the public's confidence in the Court."

"First on gun safety, then on abortion, and now on the environment – this MAGA, regressive, extremist Supreme Court is intent on setting America back decades, if not centuries," Schumer said. "The Republican-appointed majority of the MAGA Court is pushing the country back to a time when robbers barons and corporate elites have complete power and average citizens have no say."

Schumer was referring to the court's rulings last week, one of which undid the nearly half-century-old federal right to abortion, the other invalidating some of New York's restrictions on carry permits for handguns.

The court's six-justice conservative majority has been skeptical of the federal agency's authority to set national standards.

The legal fighting over the EPA's authority began several years ago when the Obama administration set strict carbon limits for each state in an effort to reduce emissions from power plants, and urged states to meet limits by shifting to cleaner energy alternatives like wind and solar.

The Obama administration's Clean Power Plan was temporarily blocked in 2016 by the Supreme Court and then repealed in 2019 by the Trump administration, which argued that the plan exceeded the EPA's authority under the Clean Air Act. It argued that the act only allowed the agency to set standards on the physical premises of a power plant — or "inside the fenceline."

The Trump administration proposed more lenient standards to regulate emissions only from existing coal-fired steam plants, a policy called the Affordable Clean Energy Rule. The revision was challenged by states and environmental groups and ultimately struck down by the U.S. Court of Appeals for the District of Columbia Circuit.

Since then, there hasn't been an EPA standard with respect to carbon pollution from existing power plants.

Republican attorneys general led by West Virginia, a major coal producer, along with coal companies and industry groups, pursued the case, arguing that the EPA doesn't have the authority to transition the country to cleaner energy sources and that such authority belongs to Congress.

Lawyers representing the EPA and U.S. utility industry lobby groups pushed back on arguments restricting the agency's authority, arguing that doing so would prompt lawsuits against power providers.

Under the Biden administration, the EPA has indicated that it will not attempt to resurrect the Clean Power Plan, but rather create its own rules to regulate power plant emissions.

But Roberts, in the majority opinion, wrote, "At bottom, the Clean Power Plan essentially adopted a cap-and-trade scheme, or set of state cap-and-trade schemes, for carbon ... Congress, however, has consistently rejected proposals to amend the Clean Air Act to create such a program."

Thursday's decision could rule out the agency's ability to impose a cap-and-trade system, which allows the government to set a maximum on the amount of greenhouse gas emissions released across an industry and penalize parties for violations. Parties then buy and sell the rights to exceed that cap, essentially creating a market around emissions.

[HYPERLINK "https://gizmodo.com/supreme-court-west-virginia-epa-power-pollution-ruling-1849112254"]

Molly Taft, Gizmodo, June 30, 2022

The U.S. Supreme Court ruled Thursday in West Virginia vs. EPA in favor of plaintiffs who argued that the Environmental Protection Agency does not have the power to regulate carbon dioxide from power plants—the country's second-largest source of CO2 emissions—without input from Congress.

The ruling almost completely disrupts any major plans to fight climate change at the federal level in the U.S., and is likely to have wide-ranging implications for federal agencies looking to protect public health under bedrock laws like the Clean Air Act. It also signals how the court is likely to rule in other environmentally damaging cases in the pipeline.

The vote was 6 to 3, with the court's three liberal members in dissent. Chief Justice John Roberts, writing for the majority, said that Congress had not explicitly given the EPA the authority to regulate emissions as it designed the Clean Power Plan to do.

"There is little question that the petitioner States are injured, since the rule requires them to more stringently regulate power plant emissions within their borders," Roberts wrote in the opinion.

In a dissenting opinion, Justice Elena Kagan wrote that the court's decision "strips the Environmental Protection Agency (EPA) of the power Congress gave it to respond to 'the most pressing environmental challenge of our time.'"

The court's decision follows a series of major policy reversals, including a devastating rollback on abortion rights, by one of the most conservative Supreme Courts in history, created by a dark-money network powered by pro-polluter interests. And it isn't done wreaking havoc on public health just yet.

[PAGE * MERGEFORMAT]

What is West Virginia vs. EPA?

This case is a strange one for a lot of reasons, and it's been a winding road of confusing legal moves to get to today's catastrophic decision. The host of plaintiffs, which include several attorneys general from Republican states and two coal companies, essentially brought a preemptive case against the Biden administration's EPA as it worked on its own rule to replace the Obama administration's 2015 Clean Power Plan.

The Clean Power Plan, which proposed to reduce emissions from the power sector by setting reduction targets that states would have needed to meet, never actually went into effect; it was tied up in conservative court challenges for years (including one led by West Virginia Attorney General Patrick Morrisey, who is leading this current challenge) before being ultimately repealed by the Trump administration in 2018. Complicating matters even further, in 2021, during the waning days of the Trump administration, a federal judge repealed the rejection of the Clean Power Plan as well as Trump's weak replacement for the policy.

Even weirder still, the Biden administration actually hasn't introduced its replacement policy yet—there's currently no EPA regulation of the power sector actively on the books. Usually, Supreme Court cases are based around an actual policy or piece of regulation that is in play, but this case is based on the idea of what the agency is able to do under the Clean Air Act. The fact that the conservative Court took up this case against a theoretical policy and ruled in favor of the plaintiffs signals that it is more willing to take an active hand in dismantling federal agencies' ability to regulate than the role the judicial branch would normally play.

"This is a Court that's now taking on a series of precedents like we've never seen a Court do, really, in our lifetime," said Lisa Graves, who served in the U.S. Department of Justice and now runs True North Research, a public policy watchdog group. "For this Court to try to take away the EPA's power, it's not inside baseball—it's a dramatic departure from federal policy, from legal precedent."

Why is the court's ruling important?

The decision technically places the responsibility for regulating emissions from the power sector into the hands of the legislative branch. In a well-functioning democracy, Congress would be able to pass laws that would then direct the EPA to regulate emissions and pollution through specific mechanisms. But as anyone who has been paying any attention at all to the state of

national U.S. politics can tell you, climate action in Congress has been dead in the water for the past decade or more. This, experts say, was a core part of the plan of the special interests that brought this case forward.

"The Court is not naïve," Graves said. "The majority knows that Republicans have blocked in Congress every major significant effort to mitigate climate change in the past few decades. They know that some of the same forces that are behind the amicus briefs [in this case] have been able to thwart Congress's ability to craft new laws to address this."

And the interests lining up behind this case are powerful. The amicus briefs filed in support of the plaintiffs' position read like a who's who in organizations that have fought tooth and nail for polluters, including the Competitive Enterprise Institute, which has been a force in spreading climate denial, and the Americans for Prosperity Foundation, an advocacy group founded by the billionaire Koch brothers, arguably two of the most powerful pro-oil and gas political funders—and spreaders of climate denial—in recent decades. Charles Koch himself, Graves said, was a notable driving force in creating the conditions for this case, as well as other cases that could be teed up before this court. Many of the judges currently sitting on the court were nominated thanks to campaigns funded by some of the same pro-pollution donors behind this case. And this landmark ruling may be just the beginning of their attempts to give even more freebies to polluters.

"This case represents a victory for right-wing infrastructure that has been funded by Koch and other anonymous donors to try and strip away the power of our federal agencies to regulate industries, like Koch industries, the oil and gas industry, and more," Graves said.

[HYPERLINK "https://www.nytimes.com/live/2022/06/30/us/supreme-court-epa" \l "the-case-is-a-crucial-moment-in-the-gop-drive-to-tilt-courts-against-climate-action"]

Adam Liptak, The New York Times, June 30, 2022

WASHINGTON — The Supreme Court on Thursday limited the Environmental Protection Agency's ability to regulate carbon emissions from power plants, dealing a blow to the Biden administration's efforts to address climate change.

The vote was 6 to 3, with the court's three liberal justices in dissent, saying that the majority had stripped the E.P.A. of "the power to respond to the most pressing environmental challenge of our time."

The ruling appeared to curtail the agency's ability to regulate the energy sector, limiting it to measures like emission controls at individual power plants and, unless Congress acts, ruling out more ambitious approaches like a cap-and-trade system at a time when experts are issuing increasingly dire warnings about the quickening pace of global warming.

The implications of the ruling could extend well beyond environmental policy and further signal that the court's newly expanded conservative majority is deeply skeptical of the power of administrative agencies to address major issues facing the nation and the planet.

That skepticism has been evident in recent decisions arising from the coronavirus pandemic. The court ruled, for instance, that the Centers for Disease Control and Prevention was not authorized to impose a moratorium on evictions and that the Occupational Safety and Health Administration was powerless to tell large employers to have their workers be vaccinated or undergo frequent testing.

The question before the justices in the new case, West Virginia v. Environmental Protection Agency, No. 20-1530, was whether the Clean Air Act allowed the E.P.A. to issue sweeping regulations across the power sector. More broadly, the court was asked to address whether Congress must "speak with particular clarity when it authorizes executive agencies to address major political and economic questions.

The court has called this inquiry the "major questions doctrine."

Last year, on the last full day of Donald J. Trump's presidency, a federal appeals court in Washington struck down his administration's plan to relax restrictions on greenhouse gas emissions from power plants. The Trump administration said the Clean Air Act unambiguously limited the measures the agency could use to those "that can be put into operation at a building, structure, facility or installation."

A divided three-judge panel of the court, the U.S. Court of Appeals for the District of Columbia Circuit, ruled that the Trump administration's plan, called the Affordable Clean Energy Rule, was based on a "fundamental misconstruction" of the relevant law, prompted by a "tortured series of misreadings."

"The E.P.A. has ample discretion in carrying out its mandate," the decision concluded. "But it may not shirk its responsibility by imagining new limitations that the plain language of the statute does not clearly require."

The panel did not reinstate a 2015 Obama-era regulation, the Clean Power Plan, which would have forced utilities to move away from coal and toward renewable energy to reduce emissions. But it rejected the Trump administration's attempt to replace that rule with what critics said was a toothless one.

The appeals court's ruling also cleared the way for the Biden administration to issue stronger restrictions.

The Obama-era plan had aimed to cut emissions from the power sector by 32 percent by 2030 compared with 2005 levels. To do so, it instructed every state to draft plans to eliminate carbon emissions from power plants by phasing out coal and increasing the generation of renewable energy.

The Clean Power Plan never came into effect. The Supreme Court blocked it in 2016, effectively ruling that states did not have to comply with the measure until a barrage of lawsuits from conservative states and the coal industry had been resolved. That ruling, followed by changes in the court's membership that have moved it to the right, has made environmental groups wary of what the court might do in cases on climate change.

[HYPERLINK "https://www.gov.ca.gov/2022/06/30/governor-newsoms-statement-on-supreme-court-ruling-on-west-virginia-v-epa/"]
Press Release, Gov.ca, June 30, 2022
SACRAMENTO – Governor Gavin Newsom today issued the following statement on the Supreme Court's ruling on West Virginia v. Environmental Protection Agency:"The Supreme Court sided with the fossil fuel industry, kneecapping the federal government's basic ability to tackle climate change. Today's ruling makes it even more imperative that California and other states succeed in our efforts to combat the climate crisis. While the court has once again turned back the clock, California refuses to go backward – we're just getting started. California will remain the tentpole for this movement with record investments and aggressive policies to reduce pollution, to protect people from extreme weather, and to leave our children and grandchildren a world that's better off than we found it."

Watch a video from Governor Newsom on today's decision here.

California's forward-thinking climate policies have seen the state exceed its 2020 climate target four years ahead of schedule while growing our economy, and spurred partnerships across the U.S. and around the world. Under Governor Newsom's leadership, California is taking bold action to further advance California's progress toward an oil-free future and bolster the state's clean energy economy.

$53.9 billion California Climate Commitment
Booming ZEV market that leads the nation in every category
Driving toward 100% ZEV sales by 2035
Preventing harmful oil production in communities and moving to phase out oil drilling and fracking
International climate partnerships with Canada, Japan, China and New Zealand
Innovative nature-based solutions to tackle climate change, protect biodiversity and expand access to nature
[HYPERLINK "https://appvoices.org/2022/06/30/statement-on-scotus-ruling-in-west-virginia-vs-epa/"]
Molly Moore Appalachian Voices, June 30, 2022
Appalachian Voices Statement on SCOTUS Ruling in West Virginia vs. EPA

"The Clean Air Act is a common-sense, bipartisan law intended to protect our air from becoming a dumping ground for corporate polluters. By restricting how the EPA can address climate-altering carbon emissions under the Clean Air Act, this Supreme Court ruling endangers all of us and future generations, and the harm will be felt most acutely in communities that are already disadvantaged. It's critical for the Biden administration to use the full scope of its authority to combat climate change and for states and public utilities to hold up their end of the responsibility to limit harmful and climate-damaging carbon dioxide pollution," said Appalachian Voices Executive Director Tom Cormons.

"Today's decision underscores the need for strong state and utility policies along with federal actions to reduce carbon emissions, but public pressure is urgently needed to make sure these states and utilities do the right thing. In Virginia, Gov. Youngkin is currently looking to undo the commonwealth's commitment to capping carbon emissions and funding energy efficiency and flood prevention programs by leaving the Regional Greenhouse Gas Initiative. In North Carolina, Duke Energy's recently proposed carbon plan is insufficient for addressing climate change in a timely manner as it leans too heavily on polluting methane gas and doesn't capture the benefits of distributed renewables such as rooftop solar. Meanwhile, the federally-owned Tennessee Valley Authority is planning the second-largest methane gas buildout of any utility in the nation," said Appalachian Voices Senior Energy Analyst Rory McIlmoil.

Message

From: Giles, Cynthia [Giles.Cynthia@epa.gov]
Sent: 6/30/2022 8:00:54 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: Next steps

We stayed on the SCOTUS call and have some feedback and possible next steps to check in with you about, if you want to take a minute at the end of the day.

Message

From: Message from the Administrator [messagefromtheadministrator@epa.gov]
Sent: 6/30/2022 8:04:36 PM
To: Message from the Administrator [messagefromtheadministrator@epa.gov]
Subject: Supreme Court Decision in West Virginia vs. EPA

Dear Colleagues,

Today, the U.S. Supreme Court issued its decision in West Virginia v. EPA, a case involving EPA's regulation of greenhouse gas emissions from electric power plants under section 111 of the Clean Air Act. We are reviewing the decision and assessing how it will impact our work going forward.

As a public health agency, EPA's number one responsibility is to protect people's health, especially those who are on the front lines of environmental pollution. Make no mistake: we will never waver from that responsibility.

While I am deeply disappointed by the Supreme Court's decision, we are committed to using the full scope of EPA's authorities to protect communities and reduce the pollution that is driving climate change. We will move forward to provide certainty and transparency for the energy sector, which will support the industry's ongoing efforts to grow our clean energy economy.

At this moment, when the impacts of the climate crisis are becoming ever more disruptive, costing billions of dollars every year from floods, wildfires, droughts and sea level rise, and jeopardizing the safety of millions of Americans, the Court's ruling is disheartening.

Ambitious climate action presents a singular opportunity to ensure U.S. global competitiveness, create jobs, lower costs for families, and protect people's health and wellbeing, especially those who've long suffered the burden of inaction. EPA will move forward with lawfully setting and implementing environmental standards that meet our obligation to protect all people and all communities from environmental harm.

Our strong EPA team, led by the Office of Air and Radiation, is ready to move forward. I know we have the best and the brightest working to put out smart, effective and sensible Clean Air Act rules to protect people and the planet. We couldn't be in better hands.

I also want to thank our colleagues in the Office of General Counsel. They put a lot of hours and a lot of heart into this case. To the OGC team - I am grateful for your work, your commitment, and your fortitude.

Let there be no uncertainty here, EPA will move forward every single day to deliver on our mission to protect human health and the environment.

Let's go.

Michael S. Regan
Administrator

Message

From: Giles, Cynthia [Giles.Cynthia@epa.gov]
Sent: 6/29/2022 2:11:41 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Millett, John [Millett.John@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Kim, Eunjung [Kim.Eun@epa.gov]; DCRoomWJCN5406/OARAA [DCRoomWJCN5406OARAA@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]

looks like done for the day at scotus

Message

From: Vijayan, Abi [Vijayan.Abi@epa.gov]
Sent: 6/30/2022 4:01:45 PM
To: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Cozzie, David [Cozzie.David@epa.gov]; Howard, Jodi [Howard.Jodi@epa.gov]; McLamb, Marguerite [McLamb.Marguerite@epa.gov]; Hambrick, Amy [Hambrick.Amy@epa.gov]; Marsh, Karen [Marsh.Karen@epa.gov]; Sheppard, Andy [Sheppard.Andy@epa.gov]; Bergin, Michelle [Bergin.Michelle@epa.gov]; Torres, Elineth [Torres.Elineth@epa.gov]; Bielen, David [bielen.david@epa.gov]; Mataway-Novak, Dylan [Mataway-Novak.Dylan@epa.gov]; Vetter, Cheryl [Vetter.Cheryl@epa.gov]; Davis, Alison [Davis.Alison@epa.gov]; Crowley, Kate [crowley.kate@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Weitz, Melissa [Weitz.Melissa@epa.gov]; DeFigueiredo, Mark [DeFigueiredo.Mark@epa.gov]; Waltzer, Suzanne [Waltzer.Suzanne@epa.gov]; Banks, Julius [Banks.Julius@epa.gov]; Irving, Bill [Irving.Bill@epa.gov]; Moeller, Njeri [Moeller.Njeri@epa.gov]; South, Peter [South.Peter@epa.gov]; Weatherhead, Darryl [Weatherhead.Darryl@epa.gov]; Wood, Anna [Wood.Anna@epa.gov]; Wayland, Richard [Wayland.Richard@epa.gov]; Maniloff, Peter [Maniloff.Peter@epa.gov]; Alsalam, Jameel [Alsalam.Jameel@epa.gov]; Daly, Owen [Daly.Owen@epa.gov]; Swanson, Nicholas [Swanson.Nicholas@epa.gov]; Sasser, Erika [Sasser.Erika@epa.gov]; Mozingo, Kristal [Mozingo.Kristal@epa.gov]; Joseph, Wanda [joseph.wanda@epa.gov]; Hunt, Virginia [Hunt.Virginia@epa.gov]; Smith, Korbin [smith.korbin@epa.gov]; Jones, Phyllis [Jones.Phyllis.D@epa.gov]; Lau, Patrick [Lau.Patrick@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]

OGC is jumping off for a call w/ DOJ on WV, please let us know if you need anything from us

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/27/2022 2:29:58 PM
To: Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]
Subject: No decision today

No announcement yet as to the next day they will be announcing decisions.

From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Monday, June 27, 2022 10:24 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: The Supreme Court did not hand down the West Virginia case today.

In addition to West Virginia, the Court has 3 more decisions to issue. It has not announced the next day it will issue opinions.

From: Hoffman, Howard
Sent: Friday, June 24, 2022 2:02 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <culligan.kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; 'Gautam Srinivasan' <Srinivasan.Gautam@epa.gov>
Subject: The Supreme Court has announced it will issue more decisions on Monday, June 27, starting at 10am

Howard J. Hoffman USEPA-OGC-ARLO (202) 564-5582(O) (240)-401-9721(C) Room 7415 WJC-North
Mailing address: Mail Code 7344A, 1200 Pennsylvania Ave. NW Washington, D.C. 20460

The contents of this message may be subject to the attorney-client, work-product, or deliberative process privileges.

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/27/2022 4:23:01 PM
To: Macedonia, Jennifer [Macedonia.Jennifer@epa.gov]
Subject: FW: Georgetown will have a public webinar on WV opinion next week

FYI – mark your calendar

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Monday, June 27, 2022 12:15 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Hutson, Nick <Hutson.Nick@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Subject: Georgetown will have a public webinar on WV opinion next week

Will be hosted by the Georgetown Climate Center, not jointly with the Supreme Court Institute, in a zoom webinar format. Panelists are Lisa Heinzerling, Bill Buzbee, Jonathan Adler, Jeff Holmstead, and Kirti Datla.

This is not a quiet reflective roundtable such as we have been discussing, but they thought they needed to do a public evaluation after the opinion hits. Looks like it is scheduled for noon on 7/6 as long as SCOTUS cooperates by releasing opinion in timely manner.

Tim Profeta
Special Counsel for the Power Sector
Office of Air Quailty, Planning and Standards
U.S. Environmental Protection Agency
Profeta.Timothy@epa.gov

Office: 919/541-5667
Mobile: 919/309-5395

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/29/2022 2:27:18 PM
To: Macedonia, Jennifer (Macedonia.Jennifer@epa.gov) [Macedonia.Jennifer@epa.gov]
Subject: Definitely tomorrow for West VA vs EPA

Theory is that someone is still hard at work on dissent.

From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Wednesday, June 29, 2022 10:25 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SCOTUS announced it will issue the remaining decisions tomorrow, 6/30 -- RE: No West Virginia decision today -- SCOTUS has not yet announced when it will issue more decisions

So, the West Virginia decision will be issued either at 10:00 or 10:10am tomorrow morning

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From: Hoffman, Howard
Sent: Wednesday, June 29, 2022 10:13 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; 'Culligan, Kevin' <culligan.kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; 'Gautam Srinivasan' <Srinivasan.Gautam@epa.gov>
Subject: No West Virginia decision today -- SCOTUS has not yet announced when it will issue more decisions

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From: Hoffman, Howard
Sent: Monday, June 27, 2022 11:10 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; 'Culligan, Kevin' <culligan.kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; 'Gautam Srinivasan' <Srinivasan.Gautam@epa.gov>
Subject: SCOTUS will announce more decision(s) on Wednesday, 6/29/22, starting at 10am -- RE: The Supreme Court did not hand down the West Virginia case today.

From: Hoffman, Howard
Sent: Monday, June 27, 2022 10:24 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; 'Culligan, Kevin' <culligan.kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; 'Gautam Srinivasan' <Srinivasan.Gautam@epa.gov>
Subject: The Supreme Court did not hand down the West Virginia case today.

In addition to West Virginia, the Court has 3 more decisions to issue. It has not announced the next day it will issue opinions.

From: Hoffman, Howard
Sent: Friday, June 24, 2022 2:02 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <culligan.kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; 'Gautam Srinivasan' <Srinivasan.Gautam@epa.gov>
Subject: The Supreme Court has announced it will issue more decisions on Monday, June 27, starting at 10am

Howard J. Hoffman USEPA-OGC-ARLO (202) 564-5582(O) (240)-401-9721(C) Room 7415 WJC-North
Mailing address: Mail Code 7344A, 1200 Pennsylvania Ave. NW Washington, D.C. 20460

The contents of this message may be subject to the attorney-client, work-product, or deliberative process privileges.

Message

From: Ashley, Jackie [Ashley.Jackie@epa.gov]
Sent: 6/29/2022 8:24:18 PM
To: Culligan, Kevin [Culligan.Kevin@epa.gov]
CC: Noonan, Jenny [Noonan.Jenny@epa.gov]
Subject: Fwd: Press Response - SCOTUS - United States v. West Virginia
Attachments: EPA SCOTUS W VA Decision Rollout_6.26.22 redline.docx

FYI

Begin forwarded message:

From: "Millett, John" <Millett.John@epa.gov>
Date: June 29, 2022 at 9:35:27 AM EDT
To: "Carroll, Timothy" <Carroll.Timothy@epa.gov>, "Hamilton, Lindsay" <Hamilton.Lindsay@epa.gov>, "Michalos, Maria" <Michalos.Maria@epa.gov>, "Conrad, Daniel" <conrad.daniel@epa.gov>
Cc: "Prieto, Jeffrey" <Prieto.Jeffrey@epa.gov>, "Profeta, Timothy" <Profeta.Timothy@epa.gov>, "Ashley, Jackie" <Ashley.Jackie@epa.gov>, "Giles, Cynthia" <Giles.Cynthia@epa.gov>, "Bremer, Kristen" <Bremer.Kristen@epa.gov>
Subject: RE: Press Response - SCOTUS - United States v. West Virginia

Thanks, Tim -- Looping Cynthia and OAQPS

From: Carroll, Timothy <Carroll.Timothy@epa.gov>
Sent: Wednesday, June 29, 2022 9:26 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>
Cc: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Subject: Press Response - SCOTUS - United States v. West Virginia

Hi all – re-upping a chain to review OPA statements in response to SCOTUS, if needed today. I am attaching the latest rollout plan I have, and know Maria and Lindsay are working with OGC on another option from the boss.

We'll use this chain for OGC and OAR approval before sharing materials with press. Thanks!

Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

Message

From: Carroll, Timothy [Carroll.Timothy@epa.gov]
Sent: 6/30/2022 1:56:30 PM
To: Hoffman, Howard [hoffman.howard@epa.gov]; Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Millett, John [Millett.John@epa.gov]; Payne, James (Jim) [payne.james@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Gilbreath, Jan [Gilbreath.Jan@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]
CC: Payne, James (Jim) [payne.james@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Press Response - West Virginia v. EPA
Attachments: 6.29.22 EPA SCOTUS W VA Decision Rollout - 540pm.docx

Hi all, re-upping the chain to review OPA statements in response to SCOTUS. Latest attached.

We'll use this chain for OGC and OAR approval before sharing materials with press. Thanks!

Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

Message

From: Davis, Alison [Davis.Alison@epa.gov]
Sent: 6/30/2022 4:23:45 PM
To: Culligan, Kevin [Culligan.Kevin@epa.gov]; Cozzie, David [Cozzie.David@epa.gov]
Subject: Fwd: Item from EPA-OAQPS, #2 of 2

Please read - this is from CAPCOA

Sent from my iPhone

Begin forwarded message:

From: Tung Le <tung@capcoa.org>
Date: June 30, 2022 at 12:21:45 PM EDT
To: "Davis, Alison" <Davis.Alison@epa.gov>
Subject: RE: Item from EPA-OAQPS, #2 of 2

Alison,

I realized that I may not have responded to your note below. I've asked my assistant to poll our members for some potential dates/times to meet, and we should have times for you to consider next week.

We saw announcement of the SCOTUS ruling this morning, and I think that when we meet it would be good to get a better understanding of how that will affect our approach moving forward. Can we plan to include that topic on the agenda?

Thank you for reaching out and engaging with us on this very important issue – please let me know if you have questions or would like to discuss ahead of our meeting.

Best,
Tung

From: Davis, Alison <Davis.Alison@epa.gov>
Sent: Friday, June 24, 2022 9:39 AM
To: CAPCOA Staff Calendar <staff@capcoa.org>
Subject: Item from EPA-OAQPS, #2 of 2

Good morning,

EPA is interested in hearing from state and local air agencies about potential requirements for meaningful engagement in Emissions Guidelines under Clean Air Act section 111(d). We'd like to set up a call in the next two weeks to do this. We will send out a set of question in advance for folks to consider. Could you share some days/times that you think would be most workable for your members?

Thank you.
Alison Davis

Alison Davis
Senior Advisor for Public Affairs
U.S. EPA, Office of Air Quality Planning & Standards
Research Triangle Park, NC 27711
919-541-7587 (desk)
919-624-0872 (mobile)
she/her/hers

Appointment

From: Giles, Cynthia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=244257a09fde4e179b447fd59d873ca9-Giles, Cynt]
Sent: 6/27/2022 6:16:49 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]

Subject: Hold for Georgetown panel on SCOTUS

Start: 7/6/2022 4:00:00 PM
End: 7/6/2022 5:30:00 PM
Show Time As: Busy

Appointment

From: Giles, Cynthia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=244257a09fde4e179b447fd59d873ca9-Giles, Cynt]
Sent: 7/1/2022 8:15:17 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]

Subject: Hold for RFF on SCOTUS

Start: 7/7/2022 3:00:00 PM
End: 7/7/2022 4:00:00 PM
Show Time As: Busy

Message

From: Giles, Cynthia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=244257A09FDE4E179B447FD59D873CA9-GILES, CYNT]
Sent: 7/1/2022 8:11:15 PM
To: Profeta, Timothy [Profeta.Timothy@epa.gov]
Subject: RE: GCC Updates: Upcoming West Virginia v. EPA webinar (July 6); New blog on EV deployment; Greauxing Resilience at Home webinar recording now available

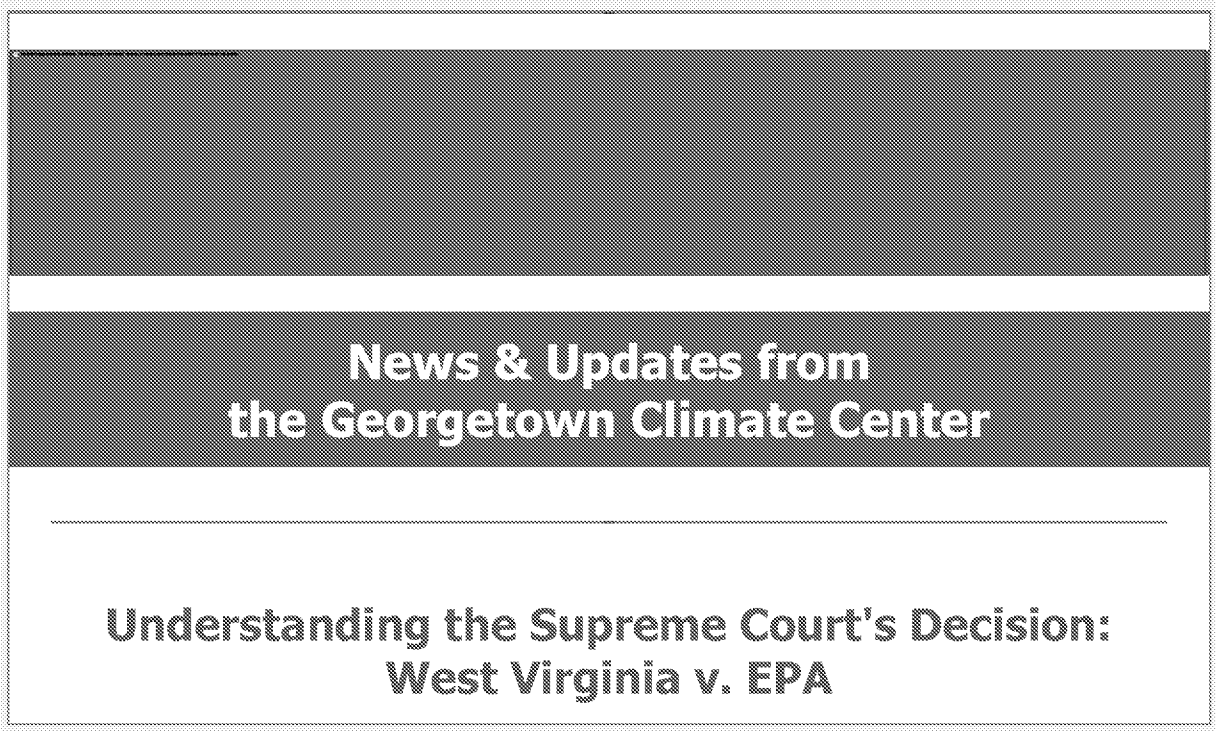
Thank you!

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Friday, July 1, 2022 4:02 PM
To: Giles, Cynthia <Giles.Cynthia@epa.gov>
Subject: FW: GCC Updates: Upcoming West Virginia v. EPA webinar (July 6); New blog on EV deployment; Greauxing Resilience at Home webinar recording now available

See the top of the mailer…

Begin forwarded message:

From: Georgetown Climate Center <climate@law.georgetown.edu>
Date: July 1, 2022 at 12:11:43 PM EDT
To: Tim Profeta <tim.profeta@duke.edu>
Subject: GCC Updates: Upcoming West Virginia v. EPA webinar (July 6); New blog on EV deployment; Greauxing Resilience at Home webinar recording now available
Reply-To: climate@law.georgetown.edu



GCC to host webinar July 6 at 12 PM ET

Join GCC for a discussion on the Supreme Court's decision in *West Virginia v. Environmental Protection Agency*. What does the opinion mean for EPA's ability to require carbon emission reductions from existing power plants? What form can EPA's forthcoming greenhouse gas regulations take? What role does the decision leave states? What does it reveal about the Court's approach to environmental regulations going forward? A panel of Clean Air Act experts will examine the implications of the ruling. Register for the Zoom webinar.

GCC's Kate Zyla shares statement on West Virginia v. EPA Supreme Court Decision

GCC Executive Director Kate Zyla released the following statement on the Supreme Court's June 30 decision on *West Virginia v. Environmental Protection Agency*:

"The Supreme Court's decision today makes it harder for the U.S. Environmental Protection Agency to reduce greenhouse gas pollution at a time when the urgent need to address the causes of climate change is only growing.

While today's decision represents an unwelcome obstacle to fighting climate change as aggressively as needed, we urge EPA to continue to use all the authorities at its disposal — including its continued authority to regulate greenhouse gas pollution from power plants and other sources — to carry out its mission to protect human health and the environment.

Achieving the needed transition to clean energy and responding to the dangerous impacts of a warming climate, including those that communities are already facing, will require a

concerted effort at every level of government. We encourage EPA to continue to work alongside state and local governments to rise to the challenge."

---

8 Ways US States and Cities Can Create a National EV Charging Network

New Blog from GCC and World Resources Institute

Electric vehicles reduce climate pollution and provide cost savings compared to gasoline and diesel vehicles, and a growing number of US drivers are purchasing EVs. To accelerate the transition to electric vehicles, significant investment in charging infrastructure for cars, trucks, and buses is needed. The Bipartisan Infrastructure Law is providing an unprecedented federal investment in EV charging stations, and states and cities across the country are preparing to deploy the new federal funding. In a new blog, GCC and World Resources Institute outline eight ways US states and cities can effectively and equitably invest federal infrastructure funding to develop a national EV charging network.

Drawing on examples of states at the forefront of innovative EV policies, steps include:

- Coordinate planning processes across agencies and levels of government;
- Remove local barriers to charging infrastructure installation;
- Use equitable and community-led planning processes;
- Look to multiple federal funding programs to expand resources for electrification; and more.

Electric vehicles charge outside an apartmet complex. (Photo Credit: Erik Nelson, NREL)

"While home or workplace charging offers a convenient and low-cost option for many EV drivers and will be the location for most EV charging, a robust public charging network is also necessary so drivers can find a convenient source of power when they need it, even when they're far from home," write authors Devashree Saha, Matthew Goetz, Dan Lashof, and Franz Litz. They also emphasize the importance of focusing clean transportation infrastructure investments in communities that are overburdened by air pollution and underserved by current transportation systems.

Creating a national electric vehicle charging network is an important strategy in reducing the US' greenhouse gas emissions – over a third of which come from transportation – and fighting climate change.

Read the full blog on GCC's website.

ICYMI: *Greauxing Resilience at Home* Now Available

View webinar recording on the GCC website

Over 130 people joined GCC and Capital Region Planning Commission (CRPC) for the release of *Greauxing Resilience at Home: A Regional Vision*, a set of legal, policy, and planning resources to promote community resilience through affordable housing and nature-based solutions in places where flooding, extreme weather events, and other factors are driving population changes and transitions. Developed over the course of two years with individuals with expertise on Louisiana's local challenges and community members with lived experiences, the Regional Vision includes a set of locally-informed goals and strategies for increasing regional and local resilience in the face of flooding and housing challenges. It is accompanied by a set of case studies exploring examples, tools, and best and emerging practices from communities across the US. A recording of the webinar is now available.

GCC project lead Senior Associate Katie Spidalieri and Justice Fellow Suhasini Ghosh joined CRPC's Rachelle Sanderson and Jamie Setze in Baton Rouge to celebrate with work group members and partners in the collaborative effort that brought the Regional Vision to life. See more pictures from the event on the GCC website.

Learn more on the GCC website

Explore Greauxing Resilience at Home: A Regional Vision

View the June 18 webinar recording

Access A Collection of Lessons and Case Studies from Louisiana and Beyond

GCC staff gathered with CRPC, members of the Regional Vision's work group, and local partners at the Center for River Studies at Louisiana State University in Baton Rouge.

Georgetown Climate Center | 600 New Jersey Avenue, NW, Washington, DC 20001

Unsubscribe thp5@duke.edu

Update Profile | Constant Contact Data Notice

Sent by climate@law.georgetown.edu

Appointment

From: Giles, Cynthia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=244257a09fde4e179b447fd59d873ca9-Giles, Cynt]
Sent: 7/1/2022 12:49:41 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]

Subject: Accepted: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Busy

Message

From: Profeta, Timothy [Profeta.Timothy@epa.gov]
Sent: 7/1/2022 7:53:30 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: Re: Georgetown event?

Kate told me that they had it arranged and would send announcement once opinion released, but I've not gotten notice either - I will reach out to her

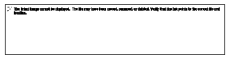
Sent from my iPhone

> On Jul 1, 2022, at 3:50 PM, Giles, Cynthia <Giles.Cynthia@epa.gov> wrote:
>
> Is there a Georgetown panel on the WV case on July 6? I am not finding it...

Message

From: Webinar Admin [no-reply@zoom.us]
Sent: 7/1/2022 8:13:09 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: Understanding the Supreme Court's Decision In West Virginia v. EPA Confirmation

Flag: Follow up



Court's Decision In West Virginia v. EPA. You can find information about this webinar below.

West Virginia v. EPA

ul 6, 2022 12:00 PM Eastern Time (US and Canada)

91 6887 1365

o Yahoo Calendar

.edu.

oid

ser:

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S: +12678310333,,99168871365# or +13017158592,,99168871365#

r higher quality, dial a number based on your current location.

S: +1 267 831 0333 or +1 301 715 8592 or +1 312 626 6799 or +1 470 250 9358 or +1 470 381 2552 or +1 646 518 9805 or +1 646 558 86
40 or +1 669 219 2599 or +1 669 900 6833 or +1 720 928 9299 or +1 971 247 1195 or +1 213 338 8477 or +1 253 215 8782 or +1 346 248

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2.255.37.11 (US West)
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5.114.131.7 (India Mumbai)
5.114.115.7 (India Hyderabad)
3.19.144.110 (Amsterdam Netherlands)
3.244.140.110 (Germany)
3.122.166.55 (Australia Sydney)
3.122.167.55 (Australia Melbourne)
9.137.40.110 (Singapore)
.211.144.160 (Brazil)
9.137.68.253 (Mexico)
.174.57.160 (Canada Toronto)
.39.152.160 (Canada Vancouver)
7.226.132.110 (Japan Tokyo)
9.137.24.110 (Japan Osaka)

1 6887 1365

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Message

From: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Sent: 6/30/2022 4:57:11 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: FYI

https://www.washingtonpost.com/opinions/2022/06/30/supreme-court-just-upended-environmental-law-worst-possible-moment/

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 7/1/2022 12:20:33 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]

Subject: Accepted: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM

Recurrence: (none)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 6/28/2022 4:44:15 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]

Subject: Accepted: HOLD SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/29/2022 4:30:00 PM
End: 6/29/2022 5:00:00 PM

Recurrence: (none)

Appointment

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 6/29/2022 3:24:26 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]

Subject: Accepted: HOLD SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/30/2022 4:30:00 PM
End: 6/30/2022 5:00:00 PM

Recurrence: (none)

Message

From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/30/2022 7:14:13 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]
CC: Michalos, Maria [Michalos.Maria@epa.gov]
Subject: Final SCOTUS Mass Mailer - will go at 3:30PM
Attachments: Supreme Court Decision in West Virginia vs. EPA

Approved and prepared to send at 3:30PM.

Message

To: Message from the Administrator [messagefromtheadministrator@epa.gov]
Subject: Supreme Court Decision in West Virginia vs. EPA

Dear Colleagues,

Today, the U.S. Supreme Court issued its decision in West Virginia v. EPA, a case involving EPA's regulation of greenhouse gas emissions from electric power plants under section 111 of the Clean Air Act. We are reviewing the decision and assessing how it will impact our work going forward.

As a public health agency, EPA's number one responsibility is to protect people's health, especially those who are on the front lines of environmental pollution. Make no mistake: we will never waver from that responsibility.

While I am deeply disappointed by the Supreme Court's decision, we are committed to using the full scope of EPA's authorities to protect communities and reduce the pollution that is driving climate change. We will move forward to provide certainty and transparency for the energy sector, which will support the industry's ongoing efforts to grow our clean energy economy.

At this moment, when the impacts of the climate crisis are becoming ever more disruptive, costing billions of dollars every year from floods, wildfires, droughts and sea level rise, and jeopardizing the safety of millions of Americans, the Court's ruling is disheartening.

Ambitious climate action presents a singular opportunity to ensure U.S. global competitiveness, create jobs, lower costs for families, and protect people's health and wellbeing, especially those who've long suffered the burden of inaction. EPA will move forward with lawfully setting and implementing environmental standards that meet our obligation to protect all people and all communities from environmental harm.

Our strong EPA team, led by the Office of Air and Radiation, is ready to move forward. I know we have the best and the brightest working to put out smart, effective and sensible Clean Air Act rules to protect people and the planet. We couldn't be in better hands.

I also want to thank our colleagues in the Office of General Counsel. They put a lot of hours and a lot of heart into this case. To the OGC team – I am grateful for your work, your commitment, and your fortitude.

Let there be no uncertainty here, EPA will move forward every single day to deliver on our mission to protect human health and the environment.

Let's go.

Michael S. Regan

Administrator

Message

From: Mitchell Hescox [mitch@creationcare.org]
Sent: 6/30/2022 8:28:10 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Enobakhare, Rosemary [Enobakhare.Rosemary@epa.gov]
Subject: Scotus Statement

JUNE 30, 2022

THE GOOD, THE BAD, AND THE UGLY: THE JUNE 30, 2022 SUPREME COURT DECISION IN WEST VIRGINIA VS. EPA

By Rev. Mitch Hescox

Today's Supreme Court decision in West Virginia vs. EPA to limit the Environmental Protection Agency's ability to regulate carbon pollution is a significant blow to God's children here in the United States and throughout creation.

The Good: The Supreme Court left the EPA's overall ability to regulate greenhouse gases intact. It agreed with settled science that carbon dioxide from the combustion of fossil fuels is the major source of greenhouse gases, and that climate change is real.

The Bad: The Supreme Court has limited the EPA's ability under the Clean Air Act to reduce greenhouse gases, ruling it does not have the authority to regulate carbon dioxide emissions across the entire energy sector but can only do so on a station-by-station basis. It leaves in the hands of Congress the ability to make any decisions limiting emissions from the power sector that go beyond an individual plant, ruling that the Clean Air Act doesn't provide EPA this authority.

This decision has the potential to slow down the defense of children's health, putting more children at risk for brain damage, cardiopulmonary diseases, preterm birth, and even death. It leaves historic areas of high pollution especially at risk, including low-income communities and those forced to live in redlined neighborhoods. This ruling may also throttle growth of low-carbon and zero-emission energy sources, effectively slowing down the fastest growing source of jobs across the energy sector and hindering one of our strongest competitive worldwide advantages as a leader of clean energy technologies that can be exported throughout the world.

The Ugly: The West Virginia vs. EPA decision forces Congress to act and take responsibility for defining the future of our nation and defend the Biblical right for an abundant life. As our Declaration of Independence proclaims, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The right to an abundant life is self-evident and should not be infringed upon.

Congress's inability to work for the common good is indeed ugly. **We need Congress to know it's more important than ever that they come together and act now – to defend our health, our children, our economy, and the future of all Americans.** Our children and the American people cannot afford to wait any longer.

We need bold action. A good start is the $555 billion in clean energy, health, and climate investments included in the reconciliation bill. However, to meet our carbon reduction goals and ensure a bright future for our children, Congress must also pass bipartisan carbon fee legislation that is not regressive on those of lower economic status. This, together with a carbon border adjustment, will accelerate American ingenuity and innovation, invest in the American worker, spur sustainable economic growth, and hold other high-emitting countries accountable to clean up their act.

Over 220,000 pro-life Christians supported the EPA's Clean Power Plan (the subject of the Supreme Court Decision) at its inception in 2015. They believe strongly in the Bible, and the Bible is clear: the earth and everything in it belongs to the Lord (Psalm 24:1); that we are but tenants of the land charged to take good care of creation, to work for the redemption of the earth, and repair the damage humanity has inflicted on God's handiwork (Romans 8:19-22).

The land shall not be sold in perpetuity, for the land is mine; with me you are but aliens and tenants. Throughout the land that you hold, you shall provide for the redemption of the land – Leviticus 25:23-24

Our community increasingly understands the harm that the climate crisis and fossil fuel pollution does to the heart, lungs, brains, and lives of our children – both here in the United States and around the world. They understand that **"Climate change is the greatest global health threat facing the world in the 21st century, but it is also the greatest opportunity to redefine the social and environmental determinants of health,"** written by the Lancet Medical Journal. We know our Scripture is clear:

Defend the weak and the fatherless; uphold the cause of the poor and the oppressed. Rescue the weak and the needy - Psalm 82:3-4

It's time for Congress to act on climate – just as the Bible tells us.

Mitch
The Rev. Mitchell C. Hescox
Co-Author with Paul Douglas:
Caring For Creation: The Evangelical's Guide to Climate Change & a Healthy Environment
President/CEO
Evangelical Environmental Network
24 East Franklin Street
New Freedom, PA 17349
717-578-2063 (cell)
717- 850-3783
mitch@creationcare.org
follow me on Twitter: https://twitter.com/mitch_at_EEN

Financial Office:
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PO Box 340
Westfield IN 46074-0340

Creation Care: It's A Matter of Life

On the web: http://creationcare.org, http://christiansandclimate.org

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To: Goffman, Joseph[Goffman.Joseph@epa.gov]
From: ABA Journal Weekly Newsletter[abajournalnews@em.americanbar.org]
Sent: Fri 7/1/2022 10:15:30 AM (UTC)
Subject: KBJ sworn in as Biden criticizes SCOTUS | Latest on abortion trigger laws | Bar exam accommodations aren't easy to get

Top stories this week from the *ABA Journal*. Add abajournalnews@em.americanbar.org to your address book | View online

Weekly Newsletter
Friday, July 01, 2022

TOP STORIES OF THE WEEK

FROM THE ABA JOURNAL

Judge Ketanji Brown Jackson sworn in as Justice Breyer officially retires; Biden accuses SCOTUS of 'outrageous behavior'

Litigation over abortion bans begins at state level; judges block laws in 5 states

SCOTUS limits EPA's authority to regulate climate change, cites 'major questions' doctrine curbing agency power

Chemerinsky: Supreme Court gun ruling puts countless firearms regulations in jeopardy

Bar examinees have little success with ADA accommodation requests and say the process is stressful

FROM THE JUNE/JULY 2022 MAGAZINE

Meet This Year's Nominees: ABA candidates highlight positive experiences, plans for year

Ahead of the 2022 ABA Annual Meeting in August, we asked incoming

leadership candidates the same four questions.

Supreme Court rules for praying football coach, drops Lemon test

Abortion ruling by Supreme Court sparks closer scrutiny of substantive due process

Cassidy Hutchinson's testimony undermines possible Trump defense in potential criminal case, experts say

Only half of class of 2018 law grads practice in law firms, NALP report finds

Judge removed from duty after alleged 'Gov. MeMaw' reference, courtroom profanity, sua sponte order

What are abortion trigger laws, and where do they stand?

Intersection: Crusaders protecting the unborn willingly sacrifice the living

House committee approves record $675M in funding for civil legal services

Top California court will consider employer liability for take-home COVID-19 infections

Winning SCOTUS litigators say Kirkland gave them a choice: Abandon gun clients or leave

Supreme Court allows Biden to end remain-in-Mexico policy; chief justice's opinion joined by Kavanaugh, liberal justices

Some BigLaw firms will cover travel costs for abortions

LAW IN POPULAR CULTURE

How to manage client expectations with help from the 2007 film 'Michael Clayton'

"Every case is different. Various factors can affect not only the outcome of a criminal matter but also the method and means we employ to achieve such an outcome," writes ABA Journal columnist Adam Banner. »Read more

Lawyer gets suspension after posting secret nude photos of his then-wife

Murder conviction of former Fisher Phillips partner is reversed; he claimed wife's shooting was an accident

ASKED AND ANSWERED

Think you won't pass the July bar exam? So did many others, but they did, say lawyers

If you are studying for the July bar exam, you're not going to memorize every flashcard for the Multistate Bar Examination, and that's OK. You can still pass.

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American Bar Association
321 North Clark Street
Chicago, IL 60654
800-285-2221 312-988-5522

This message was sent to goffman.joseph@epa.gov.

Your e-mail address will only be used within the ABA.

We do not sell or rent e-mail addresses.

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 7/1/2022 11:54:55 AM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Subject: Re: 30 minutes today to discuss SCOTUS

I gave Emily the list from our meeting yesterday. Let me know if you think I should go back to the program for additional names though. Not sure how broad this should be.

Ann (Campbell) Ferrio
Chief of Staff
Office of Air and Radiation
(202) 566-1370

On Jul 1, 2022, at 6:55 AM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Let's move the General to 2:30, and make the One-on-One with Sarah an hour. Thanks

Sent from my iPhone

Begin forwarded message:

From: "Goffman, Joseph" <Goffman.Joseph@epa.gov>
Date: July 1, 2022 at 6:53:32 AM EDT
To: "McCabe, Janet" <McCabe.Janet@epa.gov>, "Kabanda, Thierry" <Kabanda.Thierry@epa.gov>, "Campbell, Ann" <Campbell.Ann@epa.gov>
Cc: "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Prieto, Jeffrey" <Prieto.Jeffrey@epa.gov>, "Monger, Jon" <Monger.Jon@epa.gov>, "Utech, Dan" <Utech.Dan@epa.gov>
Subject: Re: 30 minutes today to discuss SCOTUS

11:30 would work for me.

Sent from my iPhone

On Jul 1, 2022, at 6:50 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Emily/Andrea—could you please work with joe and Jeff to find 30 minutes today to gather the OAR and OGC staff who worked on the CPP case for a Teams call. I'd like to thank the team and give folks a chance to talk about the decision. I think we have some things that could move around or to next week on my calendar.

Jeff—I talked to Joe about this last night, but didn't have a chance to check with you. I hope this is ok with you—we used to do this "in the old days" after momentous decisions.

Joe and Jeff can help with the invitee list....

Thanks,
Janet

Janet G. McCabe, Deputy Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
MC1102A, Room 3412WJCN
Washington, DC 20460
(202)-564-4711
mccabe.janet@epa.gov
She/her/hers

Message

From: Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]
Sent: 7/1/2022 12:00:01 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Kabanda, Thierry [Kabanda.Thierry@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
CC: Atkinson, Emily [Atkinson.Emily@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Monger, Jon [Monger.Jon@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]
Subject: RE: 30 minutes today to discuss SCOTUS

I agree. It will be nice. Note we have already done this internally within both OGC and DOJ, but it will good to hear from you all.

From: McCabe, Janet <McCabe.Janet@epa.gov>
Sent: Friday, July 1, 2022 7:50 AM
To: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Monger, Jon <Monger.Jon@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Razor, Lila <Razor.Lila@epa.gov>
Subject: RE: 30 minutes today to discuss SCOTUS

Thanks, jeff. We''ll get whoever we can. Gathering quickly is important for this kind of meeting, I think.

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Friday, July 1, 2022 7:36 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Monger, Jon <Monger.Jon@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Razor, Lila <Razor.Lila@epa.gov>
Subject: RE: 30 minutes today to discuss SCOTUS

No worries. A lot folks out today. Don't add to my calendar as I have something pending, but looping in Dan and Lila to help identify folks.

Best,

Jeff

Jeffrey M. Prieto
General Counsel
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, NW
Washington, DC 20460
T: 202-564-8040
E: Prieto.jeffrey@epa.gov

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From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 1, 2022 6:54 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Monger, Jon <Monger.Jon@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: Re: 30 minutes today to discuss SCOTUS

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Sent from my iPhone

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Jeff—I talked to Joe about this last night, but didn't have a chance to check with you. I hope this is ok with you—we used to do this "in the old days" after momentous decisions.

Joe and Jeff can help with the invitee list....

Thanks,
Janet

Janet G. McCabe, Deputy Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
MC1102A, Room 3412WJCN
Washington, DC 20460
(202)-564-4711
mccabe.janet@epa.gov
She/her/hers

Message

From: Repko, Mary Frances (EPW) [MaryFrances_Repko@epw.senate.gov]
Sent: 7/1/2022 8:32:09 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Cope, Grant [Cope.Grant@epa.gov]; Niebling, William [Niebling.William@epa.gov]
Subject: RE: Just spoke with Grant

Thank you Joe, this is very helpful. Happy to connect.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 1, 2022 4:31 PM
To: Repko, Mary Frances (EPW) <MaryFrances_Repko@epw.senate.gov>
Cc: Cope, Grant <Cope.Grant@epa.gov>; Niebling, William <Niebling.William@epa.gov>
Subject: Just spoke with Grant

In case you haven't seen this, FYI

https://www.pbs.org/newshour/show/epa-administrator-michael-regan-discusses-supreme-court-ruling-on-climate-change

"But let me be clear. It doesn't take us out of the game. We still will be able to regulate climate pollution."

Let me know if you want to connect.

Thanks.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Sent: 6/28/2022 8:33:21 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Kim, Eunjung [Kim.Eun@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]
Subject: Materials for Wednesday, June 29
Attachments: Briefing Materials: Goffman Briefing - HON & SOCMI NSPS Early Guidance; Briefing Materials: R. Snyder Briefing - EPA-USDA-DOI Prescribed Burning Discussion; Briefing Materials: AA Level Coordination Marine Litter and Plastics; Briefing Materials: M. Hoffer - WY Regional Haze - Settlement Options and Paths Forward

Goffman, Joseph Calendar
Goffman.Joseph@epa.gov
On Wednesday, June 29, 2022
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

June 2022

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		

Busy — Tentative — Free
Out of Office — Working Elsewhere — Outside of Working Hours

June 2022

Wed, Jun 29

	Before 8:00 AM	**Free**
	8:00 AM – 9:00 AM	**Free**
	9:00 AM – 9:25 AM	Management Roundtable
	9:25 AM – 9:30 AM	**Free**
	9:30 AM – 9:55 AM	Air Issues Meeting
	9:55 AM – 10:00 AM	**Free**
	10:00 AM – 10:30 AM	OTAQ Weekly
	10:30 AM – 10:55 AM	WY Regional Haze - Settlement Options and Paths Forward (1 email)
	10:55 AM – 11:00 AM	**Free**
	11:00 AM – 11:30 AM	Weekly EPA/OIRA check-in

■	11:30 AM – 12:00 PM	One on One with William Niebling
■	12:00 PM – 12:30 PM	EPA-USDA-DOI prescribed burning discussion (1 email)
■	12:30 PM – 12:55 PM	One-on-One with Ann Ferrio
■	12:30 PM – 1:00 PM	HOLD SCOTUS Check-In
■	12:30 PM – 1:00 PM	International Equipment Setup with Premier Support
■	1:00 PM – 1:25 PM	One-on-One with Jon Edwards
□	**1:25 PM – 1:30 PM**	**Free**
■	1:30 PM – 1:55 PM	One-on-One with Chris Grundler
□	**1:55 PM – 2:00 PM**	**Free**
■	2:00 PM – 2:50 PM	Virtual Meeting: HON & SOCMI NSPS Early Guidance (1 email)
□	**2:50 PM – 3:00 PM**	**Free**
■	3:00 PM – 3:45 PM	Power Sector Biweekly
□	**3:45 PM – 4:00 PM**	**Free**
▨	4:00 PM – 5:00 PM	AA Level Coordination Meeting on Marine Litter and Plastics (1 email)
▨	5:00 PM – 5:45 PM	MEETING: Weekly CPO/EPA/DOT Vehicle Call
□	**After 5:45 PM**	**Free**

Respectfully,
Thierry Kabanda
Executive Staff Assistant
Office of Air and Radiation
US Environmental Protection Agency
Mobile: (202) 281-6537
kabanda.thierry@epa.gov

Message

From: Michalos, Maria [Michalos.Maria@epa.gov]
Sent: 6/29/2022 6:59:53 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]
CC: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]
Subject: RE: latest SCOTUS - draft

Circling back on this just to flag that I'm going to send the current draft to the Administrator by 330 pm today, as he's expecting to see the draft.

Thanks.

From: Michalos, Maria
Sent: Wednesday, June 29, 2022 12:49 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Cc: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>
Subject: latest SCOTUS - draft

Hi all,

Please see the latest version of the Administrator's statement ***in case of*** a particularly destructive decision by the Court. Noting that the attached has gone through OGC/OSG review. The Administrator still needs to review but he knows it's coming his way soon.

Thanks.

Maria Michalos
Deputy Associate Administrator for Public Affairs
U.S. Environmental Protection Agency
m: (202) 815-7547

Message

From: Kabanda, Thierry [Kabanda.Thierry@epa.gov]
Sent: 6/29/2022 8:43:41 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Rakosnik, Delaney [rakosnik.delaney@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Kim, Eunjung [Kim.Eun@epa.gov]
Subject: Materials for Thursday, June 30
Attachments: FW: Montreal Protocol meeting materials; Materials for 6/30 @1pm: HD 2027+ FRM Options Selection Pre-Brief with OAR ; OAR Resource Powerpoint with Talkers

Goffman, Joseph Calendar
Goffman.Joseph@epa.gov
On Thursday, June 30, 2022
Time zone: (UTC-05:00) Eastern Time (US & Canada)
(Adjusted for Daylight Saving Time)

June 2022

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		

Busy
Out of Office
Tentative
Working Elsewhere
Free
Outside of Working Hours

June 2022

Thu, Jun 30

	Before 8:00 AM	**Free**
	8:00 AM – 9:00 AM	**Free**
	9:00 AM – 9:25 AM	Management Roundtable
	9:25 AM – 9:30 AM	**Free**
	9:30 AM – 9:55 AM	Comms weekly
	9:55 AM – 10:00 AM	**Free**
	10:00 AM – 10:30 AM	Meeting w/ EPA & PA/DE Refinery Representatives
	10:30 AM – 11:00 AM	OAR Senior Staff
	11:00 AM – 11:30 AM	Monthly ORD/OAR
	11:30 AM – 11:45 AM	**Free**

■	11:45 AM – 12:30 PM	Montreal Protocol Open-Ended Working Group (OEWG) meeting pre-brief and ExCom meetings recap (1 email)
■	12:30 PM – 1:00 PM	HOLD SCOTUS Check-In
■	1:00 PM – 1:50 PM	Virtual Meeting: HD 2027+ FRM Options Selection Pre-Brief with OAR (1 email)
□	**1:50 PM – 2:00 PM**	**Free**
■	2:00 PM – 2:45 PM	EPA/CARB Light-duty Vehicle Update
□	**2:45 PM – 3:00 PM**	**Free**
■	3:00 PM – 3:45 PM	HOLD || Power Sector Check-in
□	**3:45 PM – 4:00 PM**	**Free**
■	4:00 PM – 5:00 PM	Video-call:: Discuss the FY 2024 Budget, OCFO and OAR (1 email)
□	**After 5:00 PM**	**Free**

Respectfully,
Thierry Kabanda
Executive Staff Assistant
Office of Air and Radiation
US Environmental Protection Agency
Mobile: (202) 281-6537
kabanda.thierry@epa.gov

Message

From: Cynthia Giles [cynthia.giles@gmail.com]
Sent: 6/26/2022 1:19:58 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: The case against the Supreme Court of the United States - Vox

You might find this interesting

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.vox.com%2F2022%2F6%2F25%2F23181976%2Fcase-against-the-supreme-court-of-the-united-states&data=05%7C01%7CGoffman.Joseph%40epa.gov%7C67f24fb16a8548b4648908da57769af7%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637918464296827093%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C2000%7C%7C%7C&sdata=lqAV%2BmJr6IfxxTZatNzsQuWfH%2FW98w5ppOjtpqRKjyY%3D&reserved=0

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 6/30/2022 4:46:00 PM
To: Niebling, William [Niebling.William@epa.gov]; Hooper, Daniel [hooper.daniel@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]
CC: Goffman, Joseph [Goffman.Joseph@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Saddler, Melissa [Saddler.Melissa@epa.gov]; Nitsch, Chad [Nitsch.Chad@epa.gov]
Subject: RE: Press at NJ event

Adding OGC's CoS for awareness/Jeff's availability

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

-----Original Message-----
From: Campbell, Ann
Sent: Thursday, June 30, 2022 12:41 PM
To: Niebling, William <Niebling.William@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Lucey, John <Lucey.John.D@epa.gov>; Saddler, Melissa <Saddler.Melissa@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>
Subject: RE: Press at NJ event

Chad and I have connected and are holding until the 12:30 many of you are in now has concluded before scheduling.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

-----Original Message-----
From: Niebling, William <Niebling.William@epa.gov>
Sent: Thursday, June 30, 2022 12:33 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Lucey, John <Lucey.John.D@epa.gov>; Saddler, Melissa <Saddler.Melissa@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>
Subject: RE: Press at NJ event

After is fine. Would be great to have one of Joe or Jeff on to help steer them if possible.

-----Original Message-----
From: Campbell, Ann <Campbell.Ann@epa.gov>
Sent: Thursday, June 30, 2022 12:29 PM
To: Niebling, William <Niebling.William@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Lucey, John <Lucey.John.D@epa.gov>; Saddler, Melissa <Saddler.Melissa@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>
Subject: RE: Press at NJ event

We currently have an OAR/OGC meeting scheduled at 3:15p so, if we're to do this, I would think folks would want to hold if we can until after that meeting has happened.

Ann (Campbell) Ferrio
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 566 1370

-----Original Message-----
From: Niebling, William <Niebling.William@epa.gov>
Sent: Thursday, June 30, 2022 12:14 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Hooper, Daniel <hooper.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Lucey, John <Lucey.John.D@epa.gov>; Saddler, Melissa <Saddler.Melissa@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>
Subject: FW: Press at NJ event

Hi - per the below, Janet's recommending an OAR/OGC touch base with RAs later today if possible on the WV case, since they will be saying stuff. Ann, Daniel - do you mind trying to coordinate such a thing? Melissa and Chad can help. I'll send a note to the RAs shortly saying we will try to find a time - but will give Joe a few minutes to respond countermanding this if there's cause to.

-----Original Message-----
From: McCabe, Janet <McCabe.Janet@epa.gov>
Sent: Thursday, June 30, 2022 11:42 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: Re: Press at NJ event

That would be great. I heard from one RA whose comment was “we lost.” So we should give them something else to say.

I’d actually suggest, if it’s at all possible. we put a call on the calendar for later today for the RAs with Joe/oar and Howard/ogc to give them a heads up and take questions.

We could do it on the later side –6ish–and let them know so they’ll know they’re going to be hearing about it.

Sent from my iPhone

> On Jun 30, 2022, at 11:36 AM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:
>
> Can do - we can send out the spox/Administrator statement to them pretty quick.
>
> -----Original Message-----
> From: McCabe, Janet <McCabe.Janet@epa.gov>
> Sent: Thursday, June 30, 2022 11:36 AM
> To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
> Subject: Re: Press at NJ event
>
> Ok.
>
> One thing to add to the list, if it’s not already on it, is to provide a summary and/or bullets to share with the RAs.
>
> Sent from my iPhone
>
>>

Message

From: Michael H. Levin [mhlevin@mhllawgrp.com]
Sent: 6/30/2022 5:27:07 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
Subject: RE: W VA v EPA
Attachments: ATT00001.txt

Jesus fucking Christ. Talk about judicial activism. They apparently did everything but reverse *MA v EPA*, in a case that wasn't even a controversy b/c there was no rule for review before them.

Hope there's a real Plan B somewhere beyond TSCA.

Ugh. Press on.

Mike

From: Michael H. Levin
Sent: Saturday, June 11, 2022 8:53 AM
To: 'Goffman, Joseph'
Subject: RE: May 25 confirmation hearing

Joe -- Thx for surfacing. Had to watch. You're doing great. Keep going.

Just for perspective, Jean popped in to watch, saw Mark Kelly, thought he was you, said *"did he lose all his hair?"* ☺

All fine here. We're on the Vineyard till Aug 5 after putting on the *2Pianos* performance below, one of our non-legal endeavors.

All best.

Mike

From: Goffman, Joseph [mailto:Goffman.Joseph@epa.gov]
Sent: Friday, June 10, 2022 8:55 PM
To: Michael H. Levin
Subject: RE: May 25 confirmation hearing

Hi, Mike. While I worry a bit about your judgment in deciding to watch the recording, I am very grateful for the feedback. Hope all is going well.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Michael H. Levin <mhlevin@mhllawgrp.com>
Sent: Thursday, June 9, 2022 9:43 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: May 25 confirmation hearing

Hi Joe – I finally had time to watch the recording. Congrats on transcending pointless theater, turning the "reach out" questions into opportunities, & not biting on all the little baits (like 'the Supremes declared CPP is illegal') that were dangled. Onward. Best. Mike

Message

From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/30/2022 5:36:36 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Millett, John [Millett.John@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]
Subject: SCOTUS Mass Mailer for Review
Attachments: 2022-06-24 WV v EPA Mass Mailer Draft 1203PM.docx

OAR and OGC – please see the administrator's mass mailer for review.

I would like to get this to him by 3PM ET if possible so it can go out by 5PM ET.

The middle section is the statement word for word.

Thank you,
Lindsay

Lindsay Hamilton
Associate Administrator, Public Affairs
Environmental Protection Agency
Hamilton.Lindsay@epa.gov
202-510-3515 (mobile)
Newsroom | she/her

Message

From: Carroll, Timothy [Carroll.Timothy@epa.gov]
Sent: 6/30/2022 6:36:08 PM
To: Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Millett, John [Millett.John@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]
Subject: Carroll, Timothy shared "WV v EPA QA" with you.

Carroll, Timothy shared a file with you

Hi all, sharing an updated draft Q&A for review, with a couple new questions. Can OGC and OAR take a look? Welcome additional question suggestions if folks have them.

WV v EPA QA

This link only works for the direct recipients of this message.

Open

Microsoft

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Message

From: Holmstead, Jeff [jeff.holmstead@bracewell.com]
Sent: 6/29/2022 12:41:04 PM
To: Hutson, Nick [Hutson.Nick@epa.gov]
Subject: Re: Quick Question

Thanks very much. I really do appreciate your help.

Jeff

From: Hutson, Nick <Hutson.Nick@epa.gov>
Sent: Wednesday, June 29, 2022 8:22 AM
To: Holmstead, Jeff
Subject: FW: Quick Question

Jeff ... see below.

Nick

From: Fellner, Christian <Fellner.Christian@epa.gov>
Sent: Wednesday, June 29, 2022 7:27 AM
To: Hutson, Nick <Hutson.Nick@epa.gov>
Subject: RE: Quick Question

Nick,

As far as I know we haven't changed the policy or issued any guidance on how the reconstruction analysis should be done for EGUs. We used the boiler island approach in the 2018 EGU GHG NSPS proposal for determining what percentage capital cost increase are reasonable for a BSER—we even included the document Jeff attached in the docket. A few more recent applicability determinations are attached that deal with reconstructing and life extensions of boilers. I'm sure Jeff is familiar with the WEPCO decision, but he might find the others useful. They are all consistent with the previous determination.

Hope this helps,

Christian

From: Hutson, Nick <Hutson.Nick@epa.gov>
Sent: Tuesday, June 28, 2022 7:31 PM
To: Fellner, Christian <Fellner.Christian@epa.gov>
Subject: FW: Quick Question

Christian,

See below … thoughts?

Nick

Nick Hutson, PhD

Group Leader

Energy Strategies Group

Office of Air Quality Planning & Standards

U.S. Environmental Protection Agency

Research Triangle Park, NC 27711

Office: 919 541 2968

Mobile: 919 864-1853

email: *hutson.nick@epa.gov*

From: Holmstead, Jeff <jeff.holmstead@bracewell.com>
Sent: Tuesday, June 28, 2022 6:03 PM
To: Hutson, Nick <Hutson.Nick@epa.gov>
Subject: Quick Question

If the WV decision comes out tomorrow, I imagine that you'll be hard to reach for a while, but I thought you might be able to answer a quick question by email.

As far as I can tell, the attached 1986 memo from John Rasnic is still the current EPA guidance on the question of the costs that go into the demoninator when you determine if you meet the NSPS reconstruction test for an EGU (i.e., if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility.)

Is this right, or has EPA said anything else about this issue since then?

Thanks,

Jeff

JEFF HOLMSTEAD
Partner
jeff.holmstead@bracewell.com | download v-card
T: +1.202.828.5852 | F: +1.800.404.3970

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Message

From: Council on Environmental Quality [jessica.a.ennis@ceq.eop.gov]
Sent: 6/30/2022 11:01:05 PM
To: Kim, Eunjung [Kim.Eun@epa.gov]
Subject: Updates from the White House

Good evening,

This morning the Supreme Court issued its ruling on *West Virginia vs EPA*. In response, the President issued the following statement:

Statement by President Joe Biden on Supreme Court Ruling on West Virginia v. EPA

The Supreme Court's ruling in *West Virginia vs. EPA* is another devastating decision that aims to take our country backwards. While this decision risks damaging our nation's ability to keep our air clean and combat climate change, I will not relent in using my lawful authorities to protect public health and tackle the climate crisis.

I have directed my legal team to work with the Department of Justice and affected agencies to review this decision carefully and find ways that we can, under federal law, continue protecting Americans from harmful pollution, including pollution that causes climate change.

Since the Clean Air Act was passed by a bipartisan majority in Congress in 1970, the landmark law has enabled both Democratic and Republican administrations to protect and improve the air we breathe, cutting air pollution by 78 percent even as our economy quadrupled in size. Yet today's decision sides with special interests that have waged a long-term campaign to strip away our right to breathe clean air.
We cannot and will not ignore the danger to public health and existential threat the climate crisis poses. The science confirms what we all see with our own eyes – the wildfires, droughts, extreme heat, and intense storms are endangering our lives and livelihoods.

I will take action. My Administration will continue using lawful executive authority, including the EPA's legally-upheld authorities, to keep our air clean, protect public health, and tackle the climate crisis. We will work with states and cities to pass and uphold laws that protect their citizens. And we will keep pushing for additional Congressional action, so that Americans can fully seize the economic opportunities, cost-saving benefits, and security of a clean energy future. Together, we will tackle environmental injustice, create good-paying jobs, and lower costs for families building the clean energy economy.

Our fight against climate change must carry forward, and it will.

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benefits, and security of a clean energy future for every American. In that spirit, this week the Administration made a series of important climate related announcements spanning from clean energy jobs and electric vehicle charging to reducing greenhouse gas emissions from the health care sector and combatting illegal, unreported and unregulated fishing. Additionally, last week four agencies – EPA, DOI, USDA, and HHS – released **lists** of Justice40 covered programs. Agencies will continue to release covered programs on a rolling basis.

If you were forwarded this email, or are not on our list yet, **please sign up here**. We'll be sending out regular updates, with announcements, social media activity, and relevant updates on climate, environmental and environmental justice policy. Please feel free to respond with feedback on this newsletter and any changes that would be helpful.

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WH Climate Advisor Gina McCarthy: "Today we're announcing that 650+ hospitals and thousands of other health providers have joined our Health Sector Climate Pledge to cut emissions 50% by 2030. These private commitments will help us achieve @POTUS' climate goals and protect public health.

In addition to private sector commitments, @HHSGov, @DeptVetAffairs, & @MilitaryHealth are leading by example on clean energy and resilience across more than 200 federal hospitals & health facilities. Read more about our Health Sector Climate Pledge here: **https://washingtonpost.com/politics/2022/06/30/my-anxiety-spikes-lawyers-brace-supreme-court-climate-ruling/**" [**Tweet**, 6/30/22]

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The program supports more than 30 global ocean innovation ventures, including those focused on next generation energy sources, recycled bioplastics, new uses of plastics collected from the ocean, and novel treatments for wastewater.

We have one planet, we have one ocean, and we have one inter-connected water system: from raindrops in the atmosphere to the depths of the deepest submarine canyons, what goes into the water moves around the globe, for better or for worse." [**Tweet**, 6/28/22]

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<u>Clips of the Week</u>
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The Washington Post: **World leaders confront 'ocean emergency' at U.N. conference**
Axios: **White House announces $700M in private investments for EV charging**

EIN News: **Biden-Harris Administration catalyzes private health sector commitments to reduce climate impacts and protect public health**

Recent Announcements

Justice40 Covered Programs
Last week, programs covered under the Justice40 Initiative were released by the EPA, DOI, USDA, and HHS. Announcements from each agency are listed below, and the full list of Justice40 programs is located **here** and on the **Justice40 webpage.** Stay tuned for announcements from more agencies in the coming weeks.

- EPA programs available **here**. Read more: **https://www.epa.gov/newsreleases/epa-releases-initial-list-programs-covered-under-biden-harris-administrations**
- DOI programs available **here**. Read more: **https://doi.gov/pressreleases/interior-department-announces-programs-included-biden-harris-administrations-justice40**
- HHS programs: **https://www.hhs.gov/about/news/2022/06/24/hhs-announces-programs-to-join-president-bidens-justice40-initiative.html**
- USDA programs available **here**. Read more: **https://www.usda.gov/media/press-releases/2022/06/24/usda-announces-next-steps-biden-harris-administration-initiative**

Health Sector Leaders Join Biden Administration's Pledge to Reduce Greenhouse Gas Emissions 50% by 2030
The Biden-Harris Administration announced that 61 of the largest U.S. hospital and health sector companies responded to the Administration's **Health Sector Climate Pledge**, committing to reduce greenhouse gas emissions 50% by 2030. The new commitments represent over 650 hospitals and thousands of other providers across the country, and include plans to strengthen resilience to climate change, protect public health, and lower costs. The health care sector accounts for 8.5% of U.S. emissions, so these bold commitments advance President Biden's goal to reduce nationwide greenhouse gas emissions 50-52% in 2030 and reach net-zero emissions in 2050. The full list of the 61 organizations can be found **here**.

DOE Report Finds Energy Jobs Grew Faster Than Overall U.S. Employment in 2021
The U.S. Department of Energy (DOE) today released the 2022 U.S. Energy and Employment Report (USEER), a comprehensive study designed to track and understand employment trends across the energy sector and within key energy technologies. The report covers 2021, an unprecedented and unpredictable year for American families and businesses as the country began its slow recovery from the impacts of the COVID-19 pandemic. Despite economic uncertainty, however, the USEER analysis shows the energy sector experienced positive job growth, increasing 4.0% from 2020 to 2021, outpacing overall U.S. employment, which climbed 2.8% in the same period. Overall, the total number of energy jobs increased, from 7.5 million in 2020 to more than 7.8 million in

2021, after a steep decline in 2020. There are more than 3 million jobs, 40% of total energy jobs, that support reducing U.S. emissions to zero across several sectors—underscoring the pathway to success in reaching President Biden's goal of a net-zero emissions economy by 2050. President Biden's leadership, vision, and Bipartisan Infrastructure Law will help grow clean energy jobs at a remarkable pace, delivering good-paying opportunities to America's workers in communities across the country. Read more: **DOE Report Finds Energy Jobs Grew Faster Than Overall U.S. Employment in 2021 | Department of Energy**

Biden-Harris Administration Catalyzes more than $700 Million in Private Sector Commitments to Make EV Charging More Affordable and Accessible
The Biden-Harris Administration is highlighting how President Biden's leadership on electric vehicles is catalyzing more than $700 million in investments from the private sector that will increase our domestic capacity to manufacture more than 250,000 new electric vehicle (EV) chargers each year, add at least 2,000 good-paying jobs, and make EV charging more affordable, accessible, and equitable. The historic private investments will follow the $7.5 billion from President Biden's Bipartisan Infrastructure Law to build a national network of EV chargers, enabling convenient and uniform charging at home, work, and across the country.
Read more here: **FACT SHEET: Biden-Harris Administration Catalyzes more than $700 Million in Private Sector Commitments to Make EV Charging More Affordable and Accessible | The White House**

President Biden Signs National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses
Illegal, unreported, and unregulated (IUU) fishing is among the greatest threats to ocean health and is a significant cause of global overfishing. Left unchecked, IUU fishing and associated labor abuses undermine U.S. economic competitiveness, national security, fisheries sustainability, and the livelihoods and human rights of fishers around the world and will exacerbate the environmental and socioeconomic effects of climate change. President Joe Biden signed a National Security Memorandum (NSM) to address IUU fishing and related harmful fishing practices by:

- Promoting labor rights, human rights, and fundamental freedoms through worker-centered trade policies and working to ensure that supply chains are free from forced labor;
- Collaborating within international organizations and partnering with stakeholders from governments, civil society, and the private sector to increase global attention on IUU fishing
- Combatting abuses and strengthening incentives for ethical behavior in the global seafood industry, including by limiting the market for products derived from IUU fishing and forced labor

The Biden-Harris Administration is also taking the following actions to combat IUU fishing, which will be announced throughout this week's U.N. Ocean Conference.

- The United States, the UK, and Canada will launch an IUU Fishing Action Alliance aimed at increasing ambition and momentum in the fight against IUU fishing
- The U.S. Interagency Working Group on Illegal, Unreported, and Unregulated Fishing, comprising 21 Federal agencies, will release its National Five-Year Strategy for Combating Illegal, Unreported, and Unregulated Fishing (2022-2026). Information on the member agencies and activities of the Working Group can be found **here.**
- NOAA will also issue a proposed rule to enhance and strengthen its ability to address IUU fishing activities and combat forced labor in the seafood supply chain.

Read more here: **FACT SHEET: President Biden Signs National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses | The White House**

USDOT Announces More Than $16 Million in Grants to Help Communities Improve Transportation in Areas of Persistent Poverty
The U.S. Department of Transportation's Federal Transit Administration (FTA) awarded grants to help marginalized communities across the country. Approximately $16.2 million will fund **40 projects in 32 states and two territories** through FTA's **Areas of Persistent Poverty (AoPP) program**. FTA grants the awards on a competitive basis to state and local governments, transit agencies, and nonprofit organizations to create better transit for residents who have limited or no transportation options.

"For millions of people in communities big and small, transit is a lifeline," said U.S. Transportation Secretary Pete Buttigieg. "Every American should have a way to affordably get to work or school, buy fresh food, access medical care, and visit their loved ones – and these transit grants will help make that a reality in 40 underserved communities across the country."

The program supports the Biden-Harris Administration's **Justice40 initiative** and general goals of advancing racial equity and improving public health and the environment through transportation planning that results in new or better transit service.

Biden Administration Announces First-Ever Funding Program Dedicated to Reconnecting American Communities
The U.S. Department of Transportation is now accepting applications for the first-of-its-kind Reconnecting Communities pilot program. Created in the President's Bipartisan Infrastructure Law, funding from the $1 billion pilot program will help reconnect communities that were previously cut off from economic opportunities by transportation infrastructure. Reconnecting a community could mean adapting existing infrastructure– such as building a pedestrian walkway over or under an existing highway– to better connect neighborhoods to opportunities or better means of access such as crosswalks and redesigned intersections. Read more: **https://www.transportation.gov/briefing-**

room/biden-administration-announces-first-ever-funding-program-dedicated-reconnecting

Biden Administration Launches $500 Million Program to Transform Mines Into New Clean Energy Hubs
The Biden Administration through the U.S. Department of Energy (DOE) issued a Request For Information (RFI) to inform a $500 million program funded by President Biden's Bipartisan Infrastructure Law to place clean energy demonstration projects on current or former mine lands across America. Operated through DOE's **Office of Clean Energy Demonstrations,** the Clean Energy Demonstrations on Current and Former Mine Land Program will fund clean energy projects – such as geothermal energy – on mine land to benefit communities and their economies, create good-paying jobs and reduce carbon pollution. The revitalization of mine land to deploy cheaper, cleaner power to more Americans will further the objective of the Biden-Harris Administration's Interagency Working Group on Coal and Power Plant Communities which seeks to deliver federal investment to revitalize hard-hit energy communities. It will also advance the Justice40 Initiative which aims to deliver 40% of the benefits of clean energy and climate investments to disadvantaged communities.

President Biden and G7 Leaders Formally Launch the Partnership for Global Infrastructure and Investment
At the 2021 G7 Summit, President Biden and G7 leaders announced their intent to launch the Partnership for Global Infrastructure (PGII) to mobilize hundreds of billions of dollars and deliver quality, sustainable infrastructure that makes a difference in people's lives around the world, strengthens and diversifies our supply chains, creates new opportunities for American workers and businesses, and advances our national security. President Biden's priorities in this include:

- Tackling the climate crisis and bolstering global energy security through investments in climate resilient infrastructure, transformational energy technologies, and developing clean energy supply chains
- Developing, expanding, and deploying secure information and communications technology (ICT) networks and infrastructure to power economic growth and facilitate open digital societies
- Advancing gender equality and equity—from care infrastructure that increases opportunities for economic participation by women, to improved water and sanitation infrastructure
- Developing and upgrading the infrastructure of health systems and contributing to global health security

Read more: **https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/26/fact-sheet-president-biden-and-g7-leaders-formally-launch-the-partnership-for-global-infrastructure-and-investment/**

ICYMI Last Week

President Biden Builds on Recent Momentum for Clean Energy to Lower Costs and Create Jobs

The President brought together a bipartisan group of Governors and senior officials from 11 East Coast states to launch a new **Federal-State Offshore Wind Implementation Partnership** to accelerate our growing offshore wind industry – boosting domestic supply chains, creating good-paying jobs, and lowering energy costs. At the White House event, which also included labor leaders and CEOs, the Administration announced additional steps to **support the domestic shipbuilding industry** to build offshore wind vessels right here in America, and to advance a **National Offshore Wind Supply Chain Roadmap**.

Connect with us

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Sent by jessica.a.ennis@ceq.eop.gov powered by

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Appointment

From: Lassiter, Penny [Lassiter.Penny@epa.gov]
Sent: 6/29/2022 2:37:08 PM

Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
Location: Microsoft Teams Meeting

Start: 6/30/2022 7:00:00 PM
End: 6/30/2022 8:00:00 PM
Show Time As: Busy

Recurrence: (none)

Message

From: Council on Environmental Quality [jessica.a.ennis@ceq.eop.gov]
Sent: 6/30/2022 11:01:01 PM
To: Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: Updates from the White House

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Last week, programs covered under the Justice40 Initiative were released by the EPA, DOI, USDA, and HHS. Announcements from each agency are listed below, and the full list of Justice40 programs is located **here** and on the **Justice40 webpage.** Stay tuned for announcements from more agencies in the coming weeks.

- EPA programs available **here**. Read more: **https://www.epa.gov/newsreleases/epa-releases-initial-list-programs-covered-under-biden-harris-administrations**
- DOI programs available **here**. Read more: **https://doi.gov/pressreleases/interior-department-announces-programs-included-biden-harris-administrations-justice40**
- HHS programs: **https://www.hhs.gov/about/news/2022/06/24/hhs-announces-programs-to-join-president-bidens-justice40-initiative.html**
- USDA programs available **here**. Read more: **https://www.usda.gov/media/press-releases/2022/06/24/usda-announces-next-steps-biden-harris-administration-initiative**

Health Sector Leaders Join Biden Administration's Pledge to Reduce Greenhouse Gas Emissions 50% by 2030
The Biden-Harris Administration announced that 61 of the largest U.S. hospital and health sector companies responded to the Administration's **Health Sector Climate Pledge**, committing to reduce greenhouse gas emissions 50% by 2030. The new commitments represent over 650 hospitals and thousands of other providers across the country, and include plans to strengthen resilience to climate change, protect public health, and lower costs. The health care sector accounts for 8.5% of U.S. emissions, so these bold commitments advance President Biden's goal to reduce nationwide greenhouse gas emissions 50-52% in 2030 and reach net-zero emissions in 2050. The full list of the 61 organizations can be found **here**.

DOE Report Finds Energy Jobs Grew Faster Than Overall U.S. Employment in 2021
The U.S. Department of Energy (DOE) today released the 2022 U.S. Energy and Employment Report (USEER), a comprehensive study designed to track and understand employment trends across the energy sector and within key energy technologies. The report covers 2021, an unprecedented and unpredictable year for American families and businesses as the country began its slow recovery from the impacts of the COVID-19 pandemic. Despite economic uncertainty, however, the USEER analysis shows the energy sector experienced positive job growth, increasing 4.0% from 2020 to 2021, outpacing overall U.S. employment, which climbed 2.8% in the same period. Overall, the total number of energy jobs increased, from 7.5 million in 2020 to more than 7.8 million in

2021, after a steep decline in 2020. There are more than 3 million jobs, 40% of total energy jobs, that support reducing U.S. emissions to zero across several sectors—underscoring the pathway to success in reaching President Biden's goal of a net-zero emissions economy by 2050. President Biden's leadership, vision, and Bipartisan Infrastructure Law will help grow clean energy jobs at a remarkable pace, delivering good-paying opportunities to America's workers in communities across the country. Read more: **DOE Report Finds Energy Jobs Grew Faster Than Overall U.S. Employment in 2021 | Department of Energy**

Biden-Harris Administration Catalyzes more than $700 Million in Private Sector Commitments to Make EV Charging More Affordable and Accessible
The Biden-Harris Administration is highlighting how President Biden's leadership on electric vehicles is catalyzing more than $700 million in investments from the private sector that will increase our domestic capacity to manufacture more than 250,000 new electric vehicle (EV) chargers each year, add at least 2,000 good-paying jobs, and make EV charging more affordable, accessible, and equitable. The historic private investments will follow the $7.5 billion from President Biden's Bipartisan Infrastructure Law to build a national network of EV chargers, enabling convenient and uniform charging at home, work, and across the country.
Read more here: **FACT SHEET: Biden-Harris Administration Catalyzes more than $700 Million in Private Sector Commitments to Make EV Charging More Affordable and Accessible | The White House**

President Biden Signs National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses
Illegal, unreported, and unregulated (IUU) fishing is among the greatest threats to ocean health and is a significant cause of global overfishing. Left unchecked, IUU fishing and associated labor abuses undermine U.S. economic competitiveness, national security, fisheries sustainability, and the livelihoods and human rights of fishers around the world and will exacerbate the environmental and socioeconomic effects of climate change. President Joe Biden signed a National Security Memorandum (NSM) to address IUU fishing and related harmful fishing practices by:

- Promoting labor rights, human rights, and fundamental freedoms through worker-centered trade policies and working to ensure that supply chains are free from forced labor;
- Collaborating within international organizations and partnering with stakeholders from governments, civil society, and the private sector to increase global attention on IUU fishing
- Combatting abuses and strengthening incentives for ethical behavior in the global seafood industry, including by limiting the market for products derived from IUU fishing and forced labor

The Biden-Harris Administration is also taking the following actions to combat IUU fishing, which will be announced throughout this week's U.N. Ocean Conference.

- The United States, the UK, and Canada will launch an IUU Fishing Action Alliance aimed at increasing ambition and momentum in the fight against IUU fishing
- The U.S. Interagency Working Group on Illegal, Unreported, and Unregulated Fishing, comprising 21 Federal agencies, will release its National Five-Year Strategy for Combating Illegal, Unreported, and Unregulated Fishing (2022-2026). Information on the member agencies and activities of the Working Group can be found **here.**
- NOAA will also issue a proposed rule to enhance and strengthen its ability to address IUU fishing activities and combat forced labor in the seafood supply chain.

Read more here: **FACT SHEET: President Biden Signs National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses | The White House**

USDOT Announces More Than $16 Million in Grants to Help Communities Improve Transportation in Areas of Persistent Poverty
The U.S. Department of Transportation's Federal Transit Administration (FTA) awarded grants to help marginalized communities across the country. Approximately $16.2 million will fund **40 projects in 32 states and two territories** through FTA's **Areas of Persistent Poverty (AoPP) program**. FTA grants the awards on a competitive basis to state and local governments, transit agencies, and nonprofit organizations to create better transit for residents who have limited or no transportation options.

"For millions of people in communities big and small, transit is a lifeline," said U.S. Transportation Secretary Pete Buttigieg. "Every American should have a way to affordably get to work or school, buy fresh food, access medical care, and visit their loved ones – and these transit grants will help make that a reality in 40 underserved communities across the country."

The program supports the Biden-Harris Administration's **Justice40 initiative** and general goals of advancing racial equity and improving public health and the environment through transportation planning that results in new or better transit service.

Biden Administration Announces First-Ever Funding Program Dedicated to Reconnecting American Communities
The U.S. Department of Transportation is now accepting applications for the first-of-its-kind Reconnecting Communities pilot program. Created in the President's Bipartisan Infrastructure Law, funding from the $1 billion pilot program will help reconnect communities that were previously cut off from economic opportunities by transportation infrastructure. Reconnecting a community could mean adapting existing infrastructure– such as building a pedestrian walkway over or under an existing highway– to better connect neighborhoods to opportunities or better means of access such as crosswalks and redesigned intersections. Read more: **https://www.transportation.gov/briefing-**

room/biden-administration-announces-first-ever-funding-program-dedicated-reconnecting

Biden Administration Launches $500 Million Program to Transform Mines Into New Clean Energy Hubs
The Biden Administration through the U.S. Department of Energy (DOE) issued a Request For Information (RFI) to inform a $500 million program funded by President Biden's Bipartisan Infrastructure Law to place clean energy demonstration projects on current or former mine lands across America. Operated through DOE's **Office of Clean Energy Demonstrations,** the Clean Energy Demonstrations on Current and Former Mine Land Program will fund clean energy projects – such as geothermal energy – on mine land to benefit communities and their economies, create good-paying jobs and reduce carbon pollution. The revitalization of mine land to deploy cheaper, cleaner power to more Americans will further the objective of the Biden-Harris Administration's Interagency Working Group on Coal and Power Plant Communities which seeks to deliver federal investment to revitalize hard-hit energy communities. It will also advance the Justice40 Initiative which aims to deliver 40% of the benefits of clean energy and climate investments to disadvantaged communities.

President Biden and G7 Leaders Formally Launch the Partnership for Global Infrastructure and Investment
At the 2021 G7 Summit, President Biden and G7 leaders announced their intent to launch the Partnership for Global Infrastructure (PGII) to mobilize hundreds of billions of dollars and deliver quality, sustainable infrastructure that makes a difference in people's lives around the world, strengthens and diversifies our supply chains, creates new opportunities for American workers and businesses, and advances our national security. President Biden's priorities in this include:

- Tackling the climate crisis and bolstering global energy security through investments in climate resilient infrastructure, transformational energy technologies, and developing clean energy supply chains
- Developing, expanding, and deploying secure information and communications technology (ICT) networks and infrastructure to power economic growth and facilitate open digital societies
- Advancing gender equality and equity—from care infrastructure that increases opportunities for economic participation by women, to improved water and sanitation infrastructure
- Developing and upgrading the infrastructure of health systems and contributing to global health security

Read more: **https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/26/fact-sheet-president-biden-and-g7-leaders-formally-launch-the-partnership-for-global-infrastructure-and-investment/**

ICYMI Last Week

President Biden Builds on Recent Momentum for Clean Energy to Lower Costs and Create Jobs

The President brought together a bipartisan group of Governors and senior officials from 11 East Coast states to launch a new **Federal-State Offshore Wind Implementation Partnership** to accelerate our growing offshore wind industry – boosting domestic supply chains, creating good-paying jobs, and lowering energy costs. At the White House event, which also included labor leaders and CEOs, the Administration announced additional steps to **support the domestic shipbuilding industry** to build offshore wind vessels right here in America, and to advance a **National Offshore Wind Supply Chain Roadmap**.

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Message

From: Adrian Rehn [adrian.rehn@valleyvision.org]
Sent: 7/1/2022 4:00:51 PM
To: Nunez, Alejandra [Nunez.Alejandra@epa.gov]
Subject: Cleaner Air News - Early July 2022

Cleaner Air News - Early July 2022

View this email in your browser

Featured Stories - Early July 2022

Yolo-Solano Air Pollution Control Officer Passes Away Following Traffic Incident

It is with great sadness that we announce the passing of **Mat Ehrhardt** this past weekend. Mat was a longtime Cleaner Air Partnership member representing Yolo and Solano Counties, and was active in air quality policy

statewide. Our thoughts go out to Mat's family, friends, and colleagues.

Read More

Recap: CAP Luncheon - Greening Our Supply Chain

Watch a recap of last week's conversation about the history of **corporate sustainability** and how companies such as PG&E, SMUD, CEMEX, Teichert,

and others are lowering emissions outside of regulatory efforts.

View Recording & Materials

Recap: CAP Technical Advisory - Carbon Farming

Watch of recap of this week's **deep dive into 'carbon farming,'** which has become more prevalent as a land-based strategy to address the climate crisis

in the Sacramento region.

Read More

Supreme Court Strikes Down EPA's Power to Regulate Power Plant Emissions

Read about yesterday's 6-3 decision on **West Virginia v. EPA**, which limits the ability of the U.S. EPA to reduce power plant pollution. The ruling does not

supersede the ability of California and other states to set their own policies, but deals a blow to global climate action and Environmental Justice.

Read More

A Dose of (Climate) Reality

Read about Project Leader Adrian Rehn's experience with the Climate Reality Leaderships Corps training in Las Vegas, which **builds the capacity of**

climate leaders and their networks for action.

Read More

The Connection Between Fireworks and Air Pollution

Read about the **harmful pollutants inside modern fireworks**, which put out high levels of particulate matter and metals such as copper, strontium, lithium,

barium, and perchlorate (found in batteries and rat poison).

Read More

CleanStart Releases 2022 Progress Report

Read about the explosive growth taking place in the **Sacramento region's Clean Tech sector**, with jobs growing by 15% per year over the past decade

and total revenue hitting $4 Billion.

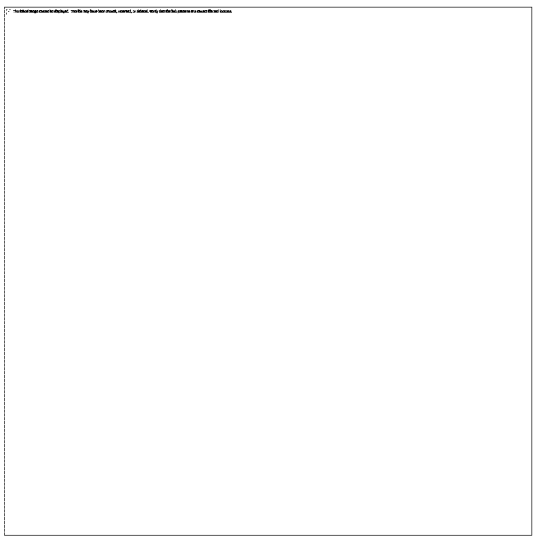
Read More

South Sacramento-Florin AB 617 Steering Committee Launches New Website

Learn about the **new online resource** for South Sacramento-Florin community members to organize for clean air. The Cleaner Air Partnership successfully

advocated for this community's formal AB 617 status in 2018.

Read More



Upcoming Workshops: Build A Box Fan Air Filter

RSVP now for a free workshop to learn how to build a **low-cost box fan air filter**, which can significantly improve indoor air quality during wildfire events.

Read More

Regional Wildfire Evacuation Maps & Resources

Prepare yourself for the **2022 wildfire season** by reviewing this guide, which includes links to the websites for county offices of emergency services and fire agencies, as well as county emergency alert notifications and evacuation maps.

Read More

Last Call: Submit Nominations for the 2022 Sustainable Business Awards By July 1st!

Nominate a local business that has adopted environmentally friendly practices, prevented pollution, or conserved resources! This year, nominations are being accepted for recognition of efforts that aide **SMUD's 2030 Zero Carbon Plan**.

Read More

Take the Clean Air Pledge Today!

Valley Vision is proud to be participating in California Clean Air Day on **October 5th**. Join us in challenging yourself to ensure clean air in your community!

Take the Pledge

Upcoming Events

Clean Economy News

Box Fan Air Filter Workshop
July 9

Webinar: Reconnecting Communities Grant Program
July 14

U.S EPA EJ Community Engagement Call
July 19

SMUD Board Meeting
July 21

South Sacramento-Florin AB 617 Steering Committee Meeting
July 26

SMAQMD Board Meeting
July 28

CARB Listening Session: Zero-Emission Trucks
July 28

CARB Board Meeting
August 25-26

36th Annual Breathe

State Policy: ARCCA 2022 Legislative Tracker
Updated June 13th

Funding: State of California Grants Portal

Funding: Transformative Climate Communities (TCC) Program
Due July 1, 2022

Funding: CARB Sustainable Transportation and Communities Research Projects
Due July 13, 2022 (Pre-Proposal)

Funding: Regional Climate Collaboratives (RCC) Program
Due July 15, 2022 (Pre-Proposal)

Funding: Community Economic Resilience Fund (CERF) Program
Due July 25, 2022

Funding: $500M in Clean School Bus Rebates
Due August 19, 2022

Funding: U.S. DOT Reconnecting Communities Pilot (RCP)
Due October 13, 2022

Job: VP of Public Policy and Research, CA FWD

Job: South Sacramento NeighborWoods Organizer

Resource: Hydrogen and Fuel Cells Career Map

Bike Trek
September 10

2022 Sustainable Business Awards
September 21

13th Annual CA Climate & Energy Forum
September 21-22 in San Diego

CA Clean Air Day
October 5

Governor Newsom Signs $308 Billion State Budget

SacRT Says Ridership Hits Highest Numbers Since Start of Pandemic

Sacramento Among 3 Places Named In EPA Lawsuit Over Air Quality

Yuba Forest Resilience Bond: Reducing Risk and Turning Woody Biomass Into Energy

Not Enough or Too Far? California Climate Plan Pleases Few

Electricity Use Would Surge under California's New Climate Plan

$30 Million AB 617 Plan for Arvin/Lamont Goes to CARB Vote

After Supreme Court Ruling, Cities 'Left Holding the Bag' on Climate Change

Washington Metro Is a Transit System in Deep Trouble

Harvard: Even Low-Level Air Pollution May Harm Health

Amtrak Spent 11 Years and $450 Million to save Acela Riders 100 Seconds

Hyundai Quietly Climbs the EV Sales Charts and Elon Musk Notices

For This City, Fare-Free Transit Is a Big Success

Thanks for reading! Contact Adrian Rehn with any questions and we'll see you next month!

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Message

From: NTAA Weekly Updates [NTAA-WEEKLY-UPDATE@LISTS.NAU.EDU]
on behalf of Mariah Tanay Ashley [000007ae03e8b1a2-dmarc-request@LISTS.NAU.EDU]
Sent: 6/30/2022 5:06:27 PM
To: NTAA-WEEKLY-UPDATE@LISTS.NAU.EDU
Subject: Fw: SCOTUS rules to restrict EPA authority in WV v. EPA Decision

NTAA Members:

Unfortunate news this morning regarding the U.S. government's efforts to combat the climate crisis. The Supreme Court has issued a decision on **West Virginia v. EPA** which challenges the EPA's authority to regulate the carbon emissions of fossil-fuel-burning power plants under the Clean Air Act. In doing so, the case threatens the federal government's ability to write and enforce any emissions-related regulations. However this decision does not overturn the court's 2007 Massachusetts v. EPA decision, which would be the EPA's worst case scenario.

Here's a link to the decision: https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf

More detail is given below from NACAA's Miles Keogh:

Mariah Ashley, Diné
Community Coordinator, National Tribal Air Association
Institute for Tribal Environmental Professionals (ITEP)
Northern Arizona University
E: Mariah.Ashley@nau.edu
She/her (Why do pronouns matter?)

From: Stephanie Steigman <scooper@4cleanair.org>

Date: June 30, 2022 at 7:44:18 AM PDT
To: public_outreach@lists.4cleanair.org, public_outreach_tribes@lists.4cleanair.org
Subject: FW: SCOTUS rules to restrict EPA authority in
Reply-To: Stephanie Steigman <scooper@4cleanair.org>

To: NACAA Public Outreach Committee

For your information, the Supreme Court has issued its decision in WV v. EPA, see below.

*** PLEASE NOTE NEW ADDRESS AND PHONE NUMBER ***

Stephanie Steigman Operations Manager

National Association of Clean Air Agencies (NACAA)

1530 Wilson Blvd., Suite 320

Arlington, VA 22209

571-970-6678

scooper@4cleanair.org

From: climate_change@lists.4cleanair.org <climate_change@lists.4cleanair.org> **On Behalf Of** Miles Keogh
Sent: Thursday, June 30, 2022 10:36 AM
To: state_directors@lists.4cleanair.org; local_directors@lists.4cleanair.org; climate_change@lists.4cleanair.org
Subject: SCOTUS rules to restrict EPA authority in WV v. EPA Decision
Importance: High

TO: NACAA AIR DIRECTORS

NACAA CLIMATE CHANGE COMMITTEE

Colleagues,

This morning, in a 6-3 decision written by Chief Justice John Roberts (joined by Justices Alito, Gorsuch, Thomas, Barrett and Kavanaugh), the US Supreme Court has limited the EPA's power to regulate greenhouse gas emissions from power plants under the Clean Air Act.

Here's a link to the decision: https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf

Justice Roberts' Decision states: "This is a major questions case. EPA claimed to discover an unheralded power representing a transformative expansion of its regulatory authority in the vague language of a long-extant, but rarely used, statute designed as a gap filler. That discovery allowed it to adopt a regulatory program that Congress had conspicuously declined to enact itself. Given these circumstances, there is every reason to 'hesitate before concluding that Congress' meant to confer on EPA the authority it claims under Section 111(d)."

It also notes: "Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible "solution to the crisis of the day."... But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d). A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body."

A dissent written by Justice Elena Kagan (joined by Justices Beyer and Sotomayor) reads: "The limits the majority now puts on EPA's authority fly in the face of the statute Congress wrote. The majority says it is simply "not plausible" that Congress enabled EPA to regulate power plants' emissions through generation shifting. Ante, at 31. But that is just what Congress did when it broadly authorized EPA in Section 111 to select the 'best system of emission reduction' for power plants."

I've already been asked how wide or narrow this decision is, so I'll add for context that the decision does not overturn the court's 2007 Massachusetts v. EPA decision. While Chevron Deference is not explicitly discarded, a commenter in my inbox has noted that "it seems like a broadside of Chevron without mentioning the name of the broadsided ship".

Please look for more information in tomorrow's *Washington Update* and in additional forthcoming analysis from NACAA.

If you have questions, I'm here to help!

Wishing you well, Miles

Miles E. Keogh

Executive Director

National Association of Clean Air Agencies

1530 Wilson Blvd Suite 320

Arlington VA 22209

(571) 970-6795

mkeogh@4cleanair.org

www.4cleanair.org

@WeAre4CleanAir

Appointment

From: McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:20:12 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [Garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Tentative

Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Drinkard, Andrea; Campbell, Ann; Razor, Lila; Conrad, Daniel

---

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Appointment

From: McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:20:11 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [Garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Busy

Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Drinkard, Andrea; Campbell, Ann; Razor, Lila; Conrad, Daniel

---

Microsoft Teams meeting

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Click here to join the meeting

Or join by entering a meeting ID
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Passcode: LYdidy

Join with a video conferencing device
sip:teams@video.epa.gov
Video Conference ID: Ex. 6 Personal Privacy (PP)
Alternate VTC instructions

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: Carbonell, Tomas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15EC2A6AD2934C669F6A675E7CF4961B-CARBONELL,]
Sent: 7/2/2022 2:41:04 PM
To: Profeta, Timothy [Profeta.Timothy@epa.gov]
Subject: RE: Check-in tomorrow

Hi Tim, sure thing – I am supposed to be out the week of July 25, and will be working remotely (but otherwise fully available) the week of August 1. I can take critical calls during the week I'm on leave, but am trying to keep that to a minimum as I'll be seeing close family who I have not seen since before the pandemic.

Ex. 6 Personal Privacy (PP)

Ex. 5 Deliberative Process (DP)

Tomás

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Saturday, July 2, 2022 10:25 AM
To: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: Re: Check-in tomorrow

Hi tomas – thanks for the flexibility. Quick question before we talk tomorrow? What are your out days, and what days is Joe out? It would be good to know the logistics and start thinking about it before we talk tomorrow.

Sent from my iPhone

On Jul 1, 2022, at 1:38 PM, Profeta, Timothy <Profeta.Timothy@epa.gov> wrote:

10 am would be just fine. I'll send an invite.

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Thursday, June 30, 2022 10:34 PM
To: Profeta, Timothy <Profeta.Timothy@epa.gov>
Subject: Re: Check-in tomorrow

Hi Tim, thanks - how about Saturday morning? I'm fairly flexible, would 10 am work?

Sent from my iPhone

On Jun 30, 2022, at 3:44 PM, Profeta, Timothy <Profeta.Timothy@epa.gov> wrote:

Thanks for this. Either weekend day morning would work – one better than the other for you? And agree that there is plenty to discuss – feel free to extend to 60 minutes…

From: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Sent: Thursday, June 30, 2022 3:44 PM
To: Profeta, Timothy <Profeta.Timothy@epa.gov>
Subject: Check-in tomorrow

Hi Tim, I'm going to be out tomorrow and don't think I'll be able to make our usual time, but I do think we should compare notes soon on post-SCOTUS engagement and yesterday's discussion about power sector strategy (among other topics!). Would you want to talk over the weekend or maybe Tuesday morning? Best,

Tomás

Appointment

From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/28/2022 4:40:54 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Rosemary Enobakhare [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]

Subject: HOLD SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/29/2022 4:30:00 PM
End: 6/29/2022 5:00:00 PM
Show Time As: Tentative

Required Attendees: Hamilton, Lindsay
Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel

Holding time for a quick briefing for external affairs teams and others following the SCOTUS decision.

Agenda: OGC analysis, Q&A.

Meeting time could change.

Please forward as you'd like.

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Appointment

From: Atkinson, Emily [Atkinson.Emily@epa.gov]
on behalf of McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:20:09 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Weaver, Susannah [Weaver.Susannah@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Tentative

Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Hoffer, Melissa; Weaver, Susannah; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Andrea Drinkard; Campbell, Ann; Razor, Lila; Conrad, Daniel

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From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/28/2022 4:40:53 PM
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Enobakhare, Rosemary [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]

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Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; Janet McCabe; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Maria Michalos; Timothy Carroll; Harney, Alethea; Carbonell, Tomas

Holding time for a quick briefing for external affairs teams and others following the SCOTUS decision.

Agenda: OGC analysis, Q&A.

Meeting time could change.

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From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/30/2022 4:28:42 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Rosemary Enobakhare [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]; Bascomb, Desiree [Bascomb.Desiree@epa.gov]
BCC: DCRoomWJCN3415/AOOPA [DCRoomWJCN3415AOOPA@epa.gov]

Subject: Confirmed - SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/30/2022 4:30:00 PM
End: 6/30/2022 5:00:00 PM
Show Time As: Tentative

Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel; Cope, Grant; Cassady, Alison; Bascomb, Desiree

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Agenda: OGC analysis, Q&A.

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From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/29/2022 2:24:08 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Rosemary Enobakhare [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]

Subject: HOLD SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/30/2022 4:30:00 PM
End: 6/30/2022 5:00:00 PM
Show Time As: Tentative

Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel; Cope, Grant; Cassady, Alison

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Appointment

From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/29/2022 2:24:06 PM
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Enobakhare, Rosemary [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]

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Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel; Cope, Grant; Cassady, Alison

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From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/30/2022 4:28:39 PM
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Enobakhare, Rosemary [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]; Bascomb, Desiree [Bascomb.Desiree@epa.gov]

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Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel; Cope, Grant; Cassady, Alison; Bascomb, Desiree

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Appointment

From: Atkinson, Emily [Atkinson.Emily@epa.gov]
on behalf of McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:27:51 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
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Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Drinkard, Andrea; Campbell, Ann; Razor, Lila; Conrad, Daniel

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Message

From: Goffman, Joseph [Goffman.Joseph@epa.gov]
Sent: 7/1/2022 1:12:28 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: RE: Janet re SCOTUS

The 11:30 is just for her to congratulate the OGC and OAR teams for a job well done. She's not interested in a briefing on the subject matter or plans going forward; otherwise, it would be a perfectly ridiculous request.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Friday, July 1, 2022 9:03 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: Janet re SCOTUS

Yes a meeting from Janet popped on at 11:30. Do you want to ask her to wait to next week?

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 1, 2022 9:01 AM
To: Giles, Cynthia <Giles.Cynthia@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Janet re SCOTUS

I think I missed a step. I talked to Janet last night and she didn't mention anything about a briefing. Has a request come in from her?

Ex. 5 Deliberative Process (DP)

Anyway, I'm fine with what you propose, although I would prefer if we could talk about it a bit more at our General this afternoon before we take any action. Obviously, I would like to be involved in this as much as possible and would like to give the team enough time to think these issues through before they're compelled to brief us or Janet.

Thanks.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Friday, July 1, 2022 8:50 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: Janet re SCOTUS

Joe – we talked yesterday after you left the call about the outline of a briefing. Would you like me to organize folks for the meeting with Janet – just figure out order and who does what (not content)? Below is what we talked about – my thought was for Janet just do 1-3 and only mention that will look at 4 and 5. Or maybe you know more about what she is looking for. Happy to help use our time efficiently.

Ex. 5 Deliberative Process (DP)

Message

From: Giles, Cynthia [Giles.Cynthia@epa.gov]
Sent: 7/1/2022 1:16:09 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: RE: Janet re SCOTUS

OK. Sorry.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 1, 2022 9:14 AM
To: Giles, Cynthia <Giles.Cynthia@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Janet re SCOTUS

Ex. 5 Deliberative Process (DP) As I just said, the 11:30 briefing is not substantive and Jane gave us no indication she wants to be involved.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Friday, July 1, 2022 9:08 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Janet re SCOTUS

Ex. 5 Deliberative Process (DP)

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 1, 2022 9:01 AM
To: Giles, Cynthia <Giles.Cynthia@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: RE: Janet re SCOTUS

I think I missed a step. I talked to Janet last night and she didn't mention anything about a briefing. Has a request come in from her?

Ex. 5 Deliberative Process (DP)

Anyway, I'm fine with what you propose, although I would prefer if we could talk about it a bit more at our General this afternoon before we take any action. Obviously, I would like to be involved in this as much as possible and would like to give the team enough time to think these issues through before they're compelled to brief us or Janet.

Thanks.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Friday, July 1, 2022 8:50 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Carbonell, Tomas <Carbonell.Tomas@epa.gov>
Subject: Janet re SCOTUS

Joe – we talked yesterday after you left the call about the outline of a briefing. Would you like me to organize folks for the meeting with Janet – just figure out order and who does what (not content)? Below is what we talked about – my thought was for Janet just do 1-3 and only mention that will look at 4 and 5. Or maybe you know more about what she is looking for. Happy to help use our time efficiently.

Ex. 5 Deliberative Process (DP)

Message

From: Goffman, Joseph [Goffman.Joseph@epa.gov]
Sent: 6/29/2022 7:05:02 PM
To: Carbonell, Tomas [Carbonell.Tomas@epa.gov]
Subject: FW: latest SCOTUS - draft
Attachments: 6.29.22 MSR SCOTUS - 1230pm.docx

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Michalos, Maria <Michalos.Maria@epa.gov>
Sent: Wednesday, June 29, 2022 12:49 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Cc: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>
Subject: latest SCOTUS - draft

Hi all,

Ex. 5 AC/DP

Thanks.

Maria Michalos
Deputy Associate Administrator for Public Affairs
U.S. Environmental Protection Agency
m: (202) 815-7547

Message

From: Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]
Sent: 6/30/2022 2:31:22 PM
To: Hoffman, Howard [hoffman.howard@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Macedonia, Jennifer [Macedonia.Jennifer@epa.gov]; Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Millett, John [Millett.John@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Noonan, Jenny [Noonan.Jenny@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]
CC: Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Payne, James (Jim) [payne.james@epa.gov]; Weaver, Susannah [Weaver.Susannah@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]
Subject: RE: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

Howard,

Thank you! Adding Dan Conrad to chain.

Best,

Jeff

Jeffrey M. Prieto
General Counsel
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, NW
Washington, DC 20460
T: 202-564-8040
E: Prieto.jeffrey@epa.gov

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From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Thursday, June 30, 2022 10:22 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Macedonia, Jennifer <Macedonia.Jennifer@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Millett, John <Millett.John@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Payne, James (Jim)

<payne.james@epa.gov>; Weaver, Susannah <Weaver.Susannah@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>
Subject: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

The U.S. Supreme Court issued its decision this morning in West Virginia v. EPA, the case that concerned the Clean Power Plan and the ACE Rule, attached.

Ex. 5 Attorney Client (AC)

At this time, we are sending a similar email to a larger group of staff.

Howard J. Hoffman USEPA-OGC-ARLO (202) 564-5582(O) (240)-401-9721(C) Room 7415 WJC-North
Mailing address: Mail Code 7344A, 1200 Pennsylvania Ave. NW Washington, D.C. 20460

The contents of this message may be subject to the attorney-client, work-product, or deliberative process privileges.

Message

From: Millett, John [Millett.John@epa.gov]
Sent: 6/30/2022 7:16:05 PM
To: Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Weaver, Susannah [Weaver.Susannah@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Kocchi, Suzanne [Kocchi.Suzanne@epa.gov]
Subject: SCOTUS Clips
Attachments: SCOTUSDec6.30.22.docx

from OPA --

-----Original Appointment-----
From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Thursday, June 30, 2022 1:50 PM
To: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Grundler, Christopher; Gunning, Paul; Hoffer, Melissa; Weaver, Susannah; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Millett, John; DeLuca, Isabel
Cc: Campbell, Ann; Nunez, Alejandra; Kocchi, Suzanne
Subject: Power Sector Check-in
When: Thursday, June 30, 2022 3:15 PM-3:40 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

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Appointment

From: Swanson, Nicholas [Swanson.Nicholas@epa.gov]
Sent: 6/28/2022 8:18:03 PM
To: Swanson, Nicholas [Swanson.Nicholas@epa.gov]; Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Keaveny, Brian [Keaveny.Brian@epa.gov]; Assmus, Phillip [Assmus.Phillip@epa.gov]; Howard Hoffman (hoffman.howard@epa.gov) [hoffman.howard@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Adamantiades, Mikhail [Adamantiades.Mikhail@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Sherry, Christopher [Sherry.Chris@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; LaCount, Melanie [lacount.melanie@epa.gov]; Fellner, Christian [Fellner.Christian@epa.gov]; Honda, Gregory [honda.gregory@epa.gov]; Sims, Ryan [Sims.Ryan@epa.gov]; Marcy, Cara [marcy.cara@epa.gov]; Eschmann, Erich [Eschmann.Erich@epa.gov]; Sugerik, Corey [Sugerik.Corey@epa.gov]; Callihan, Ryan [Callihan.Ryan@epa.gov]; Vetter, Cheryl [Vetter.Cheryl@epa.gov]; Huetteman, Justine [huetteman.justine@epa.gov]; Argentieri, Sabrina [argentieri.sabrina@epa.gov]; Torres, Elineth [Torres.Elineth@epa.gov]; Lalani, Imran [Lalani.Imran@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]; Ashley, John [ashley.john@epa.gov]; Caparoso, Jennifer [Caparoso.Jennifer@epa.gov]; Benish, Sarah [Benish.Sarah@epa.gov]; Weatherhead, Darryl [Weatherhead.Darryl@epa.gov]; Macpherson, Alex (Macpherson.Alex@epa.gov) [Macpherson.Alex@epa.gov]; Landau, Rebecca [Landau.Rebecca@epa.gov]; Lawson, John [Lawson.John@epa.gov]; Smith, Korbin [smith.korbin@epa.gov]; Baker, Sarah [baker.sarah@epa.gov]; Simon, Heather [Simon.Heather@epa.gov]
CC: Pastor, Dan [Pastor.Dan@epa.gov]; Sasser, Erika [Sasser.Erika@epa.gov]; Choudhury, Mayesha [Choudhury.Mayesha@epa.gov]; Isnard, Julien [Isnard.Julien@epa.gov]; Dolwick, Pat [dolwick.pat@epa.gov]

Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
Location: Microsoft Teams Meeting

Start: 6/30/2022 7:00:00 PM
End: 6/30/2022 8:00:00 PM
Show Time As: Tentative

Required Attendees: Swanson, Nicholas; Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher; Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John; Smith, Korbin; Baker, Sarah; Simon, Heather
Optional Attendees: Pastor, Dan; Sasser, Erika; Choudhury, Mayesha; Isnard, Julien; Dolwick, Pat

No SCOTUS decision today so rescheduling.

Open forum to discuss the debrief. Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

---

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From: Swanson, Nicholas [Swanson.Nicholas@epa.gov]
Sent: 6/28/2022 8:18:01 PM
To: Swanson, Nicholas [Swanson.Nicholas@epa.gov]; Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Keaveny, Brian [Keaveny.Brian@epa.gov]; Assmus, Phillip [Assmus.Phillip@epa.gov]; Howard Hoffman (hoffman.howard@epa.gov) [hoffman.howard@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Adamantiades, Mikhail [Adamantiades.Mikhail@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Sherry, Christopher [Sherry.Chris@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; LaCount, Melanie [lacount.melanie@epa.gov]; Fellner, Christian [Fellner.Christian@epa.gov]; Honda, Gregory [honda.gregory@epa.gov]; Sims, Ryan [Sims.Ryan@epa.gov]; Marcy, Cara [marcy.cara@epa.gov]; Eschmann, Erich [Eschmann.Erich@epa.gov]; Sugerik, Corey [Sugerik.Corey@epa.gov]; Callihan, Ryan [Callihan.Ryan@epa.gov]; Vetter, Cheryl [Vetter.Cheryl@epa.gov]; Huetteman, Justine [huetteman.justine@epa.gov]; Argentieri, Sabrina [argentieri.sabrina@epa.gov]; Torres, Elineth [Torres.Elineth@epa.gov]; Lalani, Imran [Lalani.Imran@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]; Ashley, John [ashley.john@epa.gov]; Caparoso, Jennifer [Caparoso.Jennifer@epa.gov]; Benish, Sarah [Benish.Sarah@epa.gov]; Weatherhead, Darryl [Weatherhead.Darryl@epa.gov]; Macpherson, Alex (Macpherson.Alex@epa.gov) [Macpherson.Alex@epa.gov]; Landau, Rebecca [Landau.Rebecca@epa.gov]; Lawson, John [Lawson.John@epa.gov]; Smith, Korbin [smith.korbin@epa.gov]; Baker, Sarah [baker.sarah@epa.gov]; Simon, Heather [Simon.Heather@epa.gov]
CC: Pastor, Dan [Pastor.Dan@epa.gov]; Sasser, Erika [Sasser.Erika@epa.gov]; Choudhury, Mayesha [Choudhury.Mayesha@epa.gov]; Isnard, Julien [Isnard.Julien@epa.gov]; Dolwick, Pat [dolwick.pat@epa.gov]

Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
Location: Microsoft Teams Meeting

Start: 6/30/2022 7:00:00 PM
End: 6/30/2022 8:00:00 PM
Show Time As: Busy

Required Attendees: Swanson, Nicholas; Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher; Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John; Smith, Korbin; Baker, Sarah; Simon, Heather
Optional Attendees: Pastor, Dan; Sasser, Erika; Choudhury, Mayesha; Isnard, Julien; Dolwick, Pat

No SCOTUS decision today so rescheduling.

Open forum to discuss the debrief. Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

---

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From: Swanson, Nicholas [Swanson.Nicholas@epa.gov]
Sent: 6/28/2022 8:18:00 PM
To: Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Keaveny, Brian [Keaveny.Brian@epa.gov]; Assmus, Phillip [Assmus.Phillip@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Adamantiades, Mikhail [Adamantiades.Mikhail@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Sherry, Christopher [Sherry.Chris@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; LaCount, Melanie [LaCount.Melanie@epa.gov]; Fellner, Christian [Fellner.Christian@epa.gov]; Honda, Gregory [honda.gregory@epa.gov]; Sims, Ryan [Sims.Ryan@epa.gov]; Marcy, Cara [marcy.cara@epa.gov]; Eschmann, Erich [Eschmann.Erich@epa.gov]; Sugerik, Corey [Sugerik.Corey@epa.gov]; Callihan, Ryan [Callihan.Ryan@epa.gov]; Vetter, Cheryl [Vetter.Cheryl@epa.gov]; Huetteman, Justine [huetteman.justine@epa.gov]; Argentieri, Sabrina [argentieri.sabrina@epa.gov]; Torres, Elineth [Torres.Elineth@epa.gov]; Lalani, Imran [Lalani.Imran@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]; Ashley, John [ashley.john@epa.gov]; Caparoso, Jennifer [Caparoso.Jennifer@epa.gov]; Benish, Sarah [Benish.Sarah@epa.gov]; Weatherhead, Darryl [Weatherhead.Darryl@epa.gov]; Macpherson, Alex [Macpherson.Alex@epa.gov]; Landau, Rebecca [Landau.Rebecca@epa.gov]; Lawson, John [Lawson.John@epa.gov]

Subject: Brown bag discussion/debrief of SCOTUS decision - WV vs EPA
Location: Microsoft Teams Meeting

Start: 6/29/2022 4:00:00 PM
End: 6/29/2022 5:00:00 PM
Show Time As: Tentative

Required Attendees: Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher; Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John

Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

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Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/29/2022 9:45:47 PM
To: Ashley, Jackie [Ashley.Jackie@epa.gov]
CC: Noonan, Jenny [Noonan.Jenny@epa.gov]
Subject: RE: Press Response - SCOTUS - United States v. West Virginia

Ex. 5 Deliberative Process (DP)

From: Ashley, Jackie <Ashley.Jackie@epa.gov>
Sent: Wednesday, June 29, 2022 4:24 PM
To: Culligan, Kevin <Culligan.Kevin@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>
Subject: Fwd: Press Response - SCOTUS - United States v. West Virginia

FYI

Begin forwarded message:

> **From:** "Millett, John" <Millett.John@epa.gov>
> **Date:** June 29, 2022 at 9:35:27 AM EDT
> **To:** "Carroll, Timothy" <Carroll.Timothy@epa.gov>, "Hamilton, Lindsay" <Hamilton.Lindsay@epa.gov>, "Michalos, Maria" <Michalos.Maria@epa.gov>, "Conrad, Daniel" <conrad.daniel@epa.gov>
> **Cc:** "Prieto, Jeffrey" <Prieto.Jeffrey@epa.gov>, "Profeta, Timothy" <Profeta.Timothy@epa.gov>, "Ashley, Jackie" <Ashley.Jackie@epa.gov>, "Giles, Cynthia" <Giles.Cynthia@epa.gov>, "Bremer, Kristen" <Bremer.Kristen@epa.gov>
> **Subject: RE: Press Response - SCOTUS - United States v. West Virginia**
>
> Thanks, Tim -- Looping Cynthia and OAQPS

From: Carroll, Timothy <Carroll.Timothy@epa.gov>
Sent: Wednesday, June 29, 2022 9:26 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>
Cc: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Subject: Press Response - SCOTUS - United States v. West Virginia

Hi all – re-upping a chain to review OPA statements in response to SCOTUS, if needed today. I am attaching the latest rollout plan I have, and know Maria and Lindsay are working with OGC on another option from the boss.

We'll use this chain for OGC and OAR approval before sharing materials with press. Thanks!

Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/30/2022 2:10:19 PM
To: Macedonia, Jennifer [Macedonia.Jennifer@epa.gov]
Subject: West Virginia vs EPA - my quick take

Ex. 5 Deliberative Process (DP)

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/30/2022 2:23:21 PM
To: Smith, Korbin [smith.korbin@epa.gov]
Subject: FW: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule
Attachments: West Virginia v EPA slip op. June 30 2022.pdf

From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Thursday, June 30, 2022 10:22 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Carbonell, Tomas <Carbonell.Tomas@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Arroyo, Victoria <Arroyo.Victoria@epa.gov>; Macedonia, Jennifer <Macedonia.Jennifer@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Millett, John <Millett.John@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Weaver, Susannah <Weaver.Susannah@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>
Subject: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

The U.S. Supreme Court issued its decision this morning in West Virginia v. EPA, the case that concerned the Clean Power Plan and the ACE Rule, attached.

Ex. 5 Attorney Client (AC)

We intend to send around a short summary later today, and, if warranted, a more detailed summary in the days to come.

At this time, we are sending a similar email to a larger group of staff.

Howard J. Hoffman USEPA-OGC-ARLO (202) 564-5582(O) (240)-401-9721(C) Room 7415 WJC-North
Mailing address: Mail Code 7344A, 1200 Pennsylvania Ave. NW Washington, D.C. 20460

The contents of this message may be subject to the attorney-client, work-product, or deliberative process privileges.

Message

From: Culligan, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5AB7EF4A59614FD4B4485668C42818C7-KCULLIGA]
Sent: 6/30/2022 8:33:28 PM
To: Kevin Culligan [scoopgoblue@gmail.com]
Subject: FW: Discussion/debrief of SCOTUS decision - WV vs EPA
Attachments: W VA vs EPA.pdf

From: Swanson, Nicholas <Swanson.Nicholas@epa.gov>
Sent: Thursday, June 30, 2022 10:05 AM
To: Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Hutson, Nick <Hutson.Nick@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Keaveny, Brian <Keaveny.Brian@epa.gov>; Assmus, Phillip <Assmus.Phillip@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Sherry, Christopher <Sherry.Chris@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; LaCount, Melanie <LaCount.Melanie@epa.gov>; Fellner, Christian <Fellner.Christian@epa.gov>; Honda, Gregory <honda.gregory@epa.gov>; Sims, Ryan <Sims.Ryan@epa.gov>; Marcy, Cara <marcy.cara@epa.gov>; Eschmann, Erich <Eschmann.Erich@epa.gov>; Sugerik, Corey <Sugerik.Corey@epa.gov>; Callihan, Ryan <Callihan.Ryan@epa.gov>; Vetter, Cheryl <Vetter.Cheryl@epa.gov>; Huetteman, Justine <huetteman.justine@epa.gov>; Argentieri, Sabrina <argentieri.sabrina@epa.gov>; Torres, Elineth <Torres.Elineth@epa.gov>; Lalani, Imran <Lalani.Imran@epa.gov>; Greenglass, Nora <Greenglass.Nora@epa.gov>; Ashley, John <ashley.john@epa.gov>; Caparoso, Jennifer <Caparoso.Jennifer@epa.gov>; Benish, Sarah <Benish.Sarah@epa.gov>; Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>; Macpherson, Alex <Macpherson.Alex@epa.gov>; Landau, Rebecca <Landau.Rebecca@epa.gov>; Lawson, John <Lawson.John@epa.gov>; Smith, Korbin <smith.korbin@epa.gov>
Cc: Pastor, Dan <Pastor.Dan@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Choudhury, Mayesha <Choudhury.Mayesha@epa.gov>
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

I am sure that there will be good summaries in short order, but attached is the SCOTUS opinion

-----Original Appointment-----
From: Swanson, Nicholas
Sent: Tuesday, June 28, 2022 4:18 PM
To: Swanson, Nicholas; Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher; Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John; Smith, Korbin
Cc: Pastor, Dan; Sasser, Erika; Choudhury, Mayesha
Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
When: Thursday, June 30, 2022 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

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Open forum to discuss the debrief. Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

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Message

From: Profeta, Timothy [Profeta.Timothy@epa.gov]
Sent: 6/30/2022 2:08:32 PM
To: Swanson, Nicholas [Swanson.Nicholas@epa.gov]; Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Keaveny, Brian [Keaveny.Brian@epa.gov]; Assmus, Phillip [Assmus.Phillip@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Adamantiades, Mikhail [Adamantiades.Mikhail@epa.gov]; Ashley, Jackie [Ashley.Jackie@epa.gov]; Sherry, Christopher [Sherry.Chris@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; LaCount, Melanie [LaCount.Melanie@epa.gov]; Fellner, Christian [Fellner.Christian@epa.gov]; Honda, Gregory [honda.gregory@epa.gov]; Sims, Ryan [Sims.Ryan@epa.gov]; Marcy, Cara [marcy.cara@epa.gov]; Eschmann, Erich [Eschmann.Erich@epa.gov]; Sugerik, Corey [Sugerik.Corey@epa.gov]; Callihan, Ryan [Callihan.Ryan@epa.gov]; Vetter, Cheryl [Vetter.Cheryl@epa.gov]; Huetteman, Justine [huetteman.justine@epa.gov]; Argentieri, Sabrina [argentieri.sabrina@epa.gov]; Torres, Elineth [Torres.Elineth@epa.gov]; Lalani, Imran [Lalani.Imran@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]; Ashley, John [ashley.john@epa.gov]; Caparoso, Jennifer [Caparoso.Jennifer@epa.gov]; Benish, Sarah [Benish.Sarah@epa.gov]; Weatherhead, Darryl [Weatherhead.Darryl@epa.gov]; Macpherson, Alex [Macpherson.Alex@epa.gov]; Landau, Rebecca [Landau.Rebecca@epa.gov]; Lawson, John [Lawson.John@epa.gov]; Smith, Korbin [smith.korbin@epa.gov]
CC: Pastor, Dan [Pastor.Dan@epa.gov]; Sasser, Erika [Sasser.Erika@epa.gov]; Choudhury, Mayesha [Choudhury.Mayesha@epa.gov]
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

Roberts!

From: Swanson, Nicholas <Swanson.Nicholas@epa.gov>
Sent: Thursday, June 30, 2022 10:05 AM
To: Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Hutson, Nick <Hutson.Nick@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Keaveny, Brian <Keaveny.Brian@epa.gov>; Assmus, Phillip <Assmus.Phillip@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Sherry, Christopher <Sherry.Chris@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; LaCount, Melanie <LaCount.Melanie@epa.gov>; Fellner, Christian <Fellner.Christian@epa.gov>; Honda, Gregory <honda.gregory@epa.gov>; Sims, Ryan <Sims.Ryan@epa.gov>; Marcy, Cara <marcy.cara@epa.gov>; Eschmann, Erich <Eschmann.Erich@epa.gov>; Sugerik, Corey <Sugerik.Corey@epa.gov>; Callihan, Ryan <Callihan.Ryan@epa.gov>; Vetter, Cheryl <Vetter.Cheryl@epa.gov>; Huetteman, Justine <huetteman.justine@epa.gov>; Argentieri, Sabrina <argentieri.sabrina@epa.gov>; Torres, Elineth <Torres.Elineth@epa.gov>; Lalani, Imran <Lalani.Imran@epa.gov>; Greenglass, Nora <Greenglass.Nora@epa.gov>; Ashley, John <ashley.john@epa.gov>; Caparoso, Jennifer <Caparoso.Jennifer@epa.gov>; Benish, Sarah <Benish.Sarah@epa.gov>; Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>; Macpherson, Alex <Macpherson.Alex@epa.gov>; Landau, Rebecca <Landau.Rebecca@epa.gov>; Lawson, John <Lawson.John@epa.gov>; Smith, Korbin <smith.korbin@epa.gov>
Cc: Pastor, Dan <Pastor.Dan@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Choudhury, Mayesha <Choudhury.Mayesha@epa.gov>
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

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Sent: Tuesday, June 28, 2022 4:18 PM
To: Swanson, Nicholas; Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher;

Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John; Smith, Korbin
Cc: Pastor, Dan; Sasser, Erika; Choudhury, Mayesha
Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
When: Thursday, June 30, 2022 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

No SCOTUS decision today so rescheduling.

Open forum to discuss the debrief. Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

---

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Message

From: Millett, John [Millett.John@epa.gov]
Sent: 6/30/2022 2:20:58 PM
To: Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Payne, James (Jim) [payne.james@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Gilbreath, Jan [Gilbreath.Jan@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]
CC: Payne, James (Jim) [payne.james@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: Press Response - West Virginia v. EPA

Plus Joe . . .

From: Michalos, Maria <Michalos.Maria@epa.gov>
Sent: Thursday, June 30, 2022 10:19 AM
To: Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Hi folks – understand we are mid-review. First cut of a spokesperson statement for consideration below:

DRAFT AND DELIBERATIVE:

Ex. 5 Deliberative Process (DP)

From: Carroll, Timothy <Carroll.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 9:57 AM
To: Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Press Response - West Virginia v. EPA

Hi all, re-upping the chain to review OPA statements in response to SCOTUS. Latest attached.

We'll use this chain for OGC and OAR approval before sharing materials with press. Thanks!

Tim Carroll (he/him)
Office of Public Affairs

Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

Appointment

From: McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:20:11 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [Garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Busy

Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Drinkard, Andrea; Campbell, Ann; Razor, Lila; Conrad, Daniel

---

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Message

From: Millett, John [Millett.John@epa.gov]
Sent: 6/30/2022 2:48:41 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: RE: Press Response - West Virginia v. EPA

This would be the agency statement.

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Thursday, June 30, 2022 10:48 AM
To: Millett, John <Millett.John@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Is this for the administrator, or an agency statement?

From: Millett, John <Millett.John@epa.gov>
Sent: Thursday, June 30, 2022 10:47 AM
To: Conrad, Daniel <conrad.daniel@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Laverdiere, Maria <Laverdiere.Maria@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

+ Joe and OCIR

From: Conrad, Daniel <conrad.daniel@epa.gov>
Sent: Thursday, June 30, 2022 10:40 AM
To: Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Ex. 5 AC/DP

From: Conrad, Daniel
Sent: Thursday, June 30, 2022 10:26 AM

To: Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
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Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
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Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

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Sent: 6/30/2022 3:50:50 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: RE: Press Response - West Virginia v. EPA

yes

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Giles, Cynthia <Giles.Cynthia@epa.gov>
Sent: Thursday, June 30, 2022 11:44 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: FW: Press Response - West Virginia v. EPA

Ex. 5 AC/DP

From: Millett, John <Millett.John@epa.gov>
Sent: Thursday, June 30, 2022 10:47 AM
To: Conrad, Daniel <conrad.daniel@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Laverdiere, Maria <Laverdiere.Maria@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

+ Joe and OCIR

From: Conrad, Daniel <conrad.daniel@epa.gov>
Sent: Thursday, June 30, 2022 10:40 AM
To: Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Ex. 5 AC/DP

From: Conrad, Daniel
Sent: Thursday, June 30, 2022 10:26 AM
To: Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Ex. 5 AC/DP

From: Michalos, Maria <Michalos.Maria@epa.gov>
Sent: Thursday, June 30, 2022 10:19 AM
To: Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Hi folks – understand we are mid-review. First cut of a spokesperson statement for consideration below:

Ex. 5 Deliberative Process (DP)

From: Carroll, Timothy <Carroll.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 9:57 AM
To: Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Press Response - West Virginia v. EPA

Hi all, re-upping the chain to review OPA statements in response to SCOTUS. Latest attached.

We'll use this chain for OGC and OAR approval before sharing materials with press. Thanks!

Tim Carroll (he/him)
Office of Public Affairs
Environmental Protection Agency
202-384-7510 (mobile)
Twitter: @EPAPressOffice

Message

From: Cynthia Giles Ex. 6 Personal Privacy (PP)
Sent: 6/30/2022 6:46:06 PM
To: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: Fwd: SCOTUS Mass Mailer for Review
Attachments: 2022-06-24 WV v EPA Mass Mailer Draft 156PM.docx

---------- Forwarded message ---------
From: **Hamilton, Lindsay** <Hamilton.Lindsay@epa.gov>
Date: Thu, Jun 30, 2022 at 1:57 PM
Subject: RE: SCOTUS Mass Mailer for Review
To: Conrad, Daniel <conrad.daniel@epa.gov>, Millett, John <Millett.John@epa.gov>, Goffman, Joseph <Goffman.Joseph@epa.gov>, Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>, Cynthia Giles Ex. 6 Personal Privacy (PP), Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>, Davis, Alison <Davis.Alison@epa.gov>, Ashley, Jackie <Ashley.Jackie@epa.gov>, Bremer, Kristen <Bremer.Kristen@epa.gov>, DeLuca, Isabel <DeLuca.Isabel@epa.gov>

Great, updated version here. I will send forward for final review in 30 minutes.

Ex. 5 Deliberative Process (DP)

From: Conrad, Daniel <conrad.daniel@epa.gov>
Sent: Thursday, June 30, 2022 1:55 PM
To: Millett, John <Millett.John@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Cynthia Giles Ex. 6 Personal Privacy (PP); Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>; Davis, Alison <Davis.Alison@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Bremer, Kristen <Bremer.Kristen@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: SCOTUS Mass Mailer for Review

Ex. 5 Attorney Client (AC)

Thanks

-Dan

From: Millett, John <Millett.John@epa.gov>
Sent: Thursday, June 30, 2022 1:52 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Cynthia Giles <Ex. 6 Personal Privacy (PP)>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>; Davis, Alison <Davis.Alison@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Bremer, Kristen <Bremer.Kristen@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: SCOTUS Mass Mailer for Review

Ex. 5 Deliberative Process (DP)

From: Millett, John <Millett.John@epa.gov>
Sent: Thursday, June 30, 2022 1:46 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Cynthia Giles <Ex. 6 Personal Privacy (PP)>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>; Davis, Alison <Davis.Alison@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Bremer, Kristen <Bremer.Kristen@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: FW: SCOTUS Mass Mailer for Review

Plus Cynthia, Tim, Isabel and OAQPS comms

From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 1:37 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>
Subject: SCOTUS Mass Mailer for Review

OAR and OGC – please see the administrator's mass mailer for review.

I would like to get this to him by 3PM ET if possible so it can go out by 5PM ET.

The middle section is the statement word for word.

Thank you,

Lindsay

Lindsay Hamilton

Associate Administrator, Public Affairs

Environmental Protection Agency

Hamilton.Lindsay@epa.gov

202-510-3515 (mobile)

Newsroom | she/her

DRAFT MASS MAILER
For distribution June 30, 2022
Contact: Lindsay Hamilton

FROM: Administrator Regan
TO: All EPA Staff
SUBJECT: Supreme Court Decision in West Virginia v. EPA

Dear Colleagues,

Ex. 5 Deliberative Process (DP)

Let's go.

Michael S. Regan
Administrator

Message

From: Millett, John [Millett.John@epa.gov]
Sent: 6/30/2022 6:47:50 PM
CC: Giles, Cynthia [Giles.Cynthia@epa.gov]
Subject: RE: SCOTUS Mass Mailer for Review

I apologize, Cynthia – trying to avoid doing that!

From: Cynthia Giles Ex. 6 Personal Privacy (PP)
Sent: Thursday, June 30, 2022 2:46 PM
To: Millett, John <Millett.John@epa.gov>
Cc: Giles, Cynthia <Giles.Cynthia@epa.gov>
Subject: Re: SCOTUS Mass Mailer for Review

John - this thread was going to my personal not my work email. I wondered why I was not seeing much email traffic on this. I will delete from personal and forward to work, but if there is any way I can help prevent this in the future, let me know! The scourge of autofill no doubt.

Cynthia

On Thu, Jun 30, 2022 at 1:52 PM Millett, John <Millett.John@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

From: Millett, John <Millett.John@epa.gov>
Sent: Thursday, June 30, 2022 1:46 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Cynthia Giles < Ex. 6 Personal Privacy (PP) >; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Noonan, Jenny <Noonan.Jenny@epa.gov>; Davis, Alison <Davis.Alison@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Bremer, Kristen <Bremer.Kristen@epa.gov>; DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: FW: SCOTUS Mass Mailer for Review

Plus Cynthia, Tim, Isabel and OAQPS comms

From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 1:37 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>
Subject: SCOTUS Mass Mailer for Review

OAR and OGC – please see the administrator's mass mailer for review.

I would like to get this to him by 3PM ET if possible so it can go out by 5PM ET.

The middle section is the statement word for word.

Thank you,

Lindsay

Lindsay Hamilton

Associate Administrator, Public Affairs

Environmental Protection Agency

Hamilton.Lindsay@epa.gov

202-510-3515 (mobile)

Newsroom | she/her

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 7/1/2022 12:38:39 PM
To: Atkinson, Emily [Atkinson.Emily@epa.gov]
Subject: RE: 30 minutes today to discuss SCOTUS

The day the Court stayed the rule – February 9, 2016 – was much worse than yesterday.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Atkinson, Emily <Atkinson.Emily@epa.gov>
Sent: Friday, July 1, 2022 8:37 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: 30 minutes today to discuss SCOTUS

Phew! I remembered all the days, weeks, months of meetings in the Air office on CPP and my heart just sank yesterday thinking of you all who worked so hard. Glad to know you feel optimistic.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 01, 2022 8:35 AM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: 30 minutes today to discuss SCOTUS

Thanks, Emily. **Ex. 5 Deliberative Process (DP)**

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Atkinson, Emily <Atkinson.Emily@epa.gov>
Sent: Friday, July 1, 2022 8:11 AM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: RE: 30 minutes today to discuss SCOTUS

We are going with 11:30am – scheduler will come through shortly. I was thinking about you yesterday when the decision came out – hope you are doing well Joe.

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Friday, July 01, 2022 6:54 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Kabanda, Thierry <Kabanda.Thierry@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Monger, Jon <Monger.Jon@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: Re: 30 minutes today to discuss SCOTUS

11:30 would work for me.

Sent from my iPhone

On Jul 1, 2022, at 6:50 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Emily/Andrea—could you please work with joe and Jeff to find 30 minutes today to gather the OAR and OGC staff who worked on the CPP case for a Teams call. I'd like to thank the team and give folks a chance to talk about the decision. I think we have some things that could move around or to next week on my calendar.

Jeff—I talked to Joe about this last night, but didn't have a chance to check with you. I hope this is ok with you—we used to do this "in the old days" after momentous decisions.

Joe and Jeff can help with the invitee list....

Thanks,
Janet

Janet G. McCabe, Deputy Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
MC1102A, Room 3412WJCN
Washington, DC 20460
(202)-564-4711
mccabe.janet@epa.gov
She/her/hers

Message

From: Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]
Sent: 7/2/2022 7:04:29 PM
To: Payne, James (Jim) [payne.james@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]
CC: Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: [EXTERNAL] West Virginia case

Really appreciate your sending the email to DOJ and your sharing the response. Thank you. Have a great Fourth.

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Payne, James (Jim) <payne.james@epa.gov>
Sent: Saturday, July 2, 2022 3:01 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Arroyo, Victoria <Arroyo.Victoria@epa.gov>
Cc: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Fwd: [EXTERNAL] West Virginia case

Joe - thank you for your kind comments on legal team for this case. I shared them with the OGC/DOJ legal team, below.

Vicki - including you too, with continued appreciation for your coming onto the team!

Sent from my iPhone

Begin forwarded message:

> **From:** "Grishaw, Letitia (ENRD)" <Letitia.Grishaw@usdoj.gov>
> **Date:** July 1, 2022 at 4:44:02 PM EDT
> **To:** "Payne, James (Jim)" <payne.james@epa.gov>
> **Subject: Re: [EXTERNAL] West Virginia case**
>
> Thank you, Jim. Very kind of you to pass that along. We have, in turn, passed it along to all our folks on the team and to Todd and Matt Littleton. The OGC team was such a pleasure to work with. There was a strong sense of shared mission here. We look forward to continuing to collaborate on a way forward.
>
> Sent from my iPhone
>
> > On Jun 30, 2022, at 7:59 PM, Payne, James (Jim) <payne.james@epa.gov> wrote:
> >
> > CONFIDENTIAL ATTORNEY COMMUNICATION
> >
> > Hi all,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Continued thanks and admiration for the whole legal team including the many others.

Jim
Deputy General Counsel
Office of General Counsel
USEPA
202-672-3727 cell

Message

From: Flom, Hannah [Flom.Hannah@epa.gov]
Sent: 6/30/2022 11:38:32 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: Draft Tweet for Review

Getting this approved by the Administrator now. Thanks!

Sent from my iPhone

On Jun 30, 2022, at 6:34 PM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Awesome, thanks!

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 7:34 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ex. 5 Attorney Client (AC)

Best,

Jeff

From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 7:24 PM
To: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ok then, we are going to propose the original to him.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 7:07 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Joe gets the deciding vote!

Pleasure to work with you all!

Jeff

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Thursday, June 30, 2022 7:02 PM
To: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ex. 5 Attorney Client (AC)

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 6:57 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Hi all,

Ex. 5 Attorney Client (AC)

Best,

Jeff

Jeffrey M. Prieto
General Counsel
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, NW
Washington, DC 20460
T: 202-564-8040
E: Prieto.jeffrey@epa.gov

CONFIDENTIALITY NOTICE: This message may contain deliberative, attorney-client, or otherwise privileged material. Do not release this message under FOIA without appropriate review. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, please contact the sender and delete all copies.

From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 6:33 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>
Subject: Draft Tweet for Review

Joe and Jeff,

There is a point the Administrator made in his interview that we'd like to amplify clearly on Twitter. Can you review?

DRAFT - Deliberative

Ex. 5 Attorney Client (AC)

Hannah – will follow-up with you on this.

Thanks,
Lindsay

Lindsay Hamilton
Associate Administrator, Public Affairs
Environmental Protection Agency
Hamilton.Lindsay@epa.gov
202-510-3515 (mobile)
Newsroom | she/her

Message

From: Flom, Hannah [Flom.Hannah@epa.gov]
Sent: 6/30/2022 11:40:58 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: Draft Tweet for Review

Confirming the language below (no edits) is approved by the Administrator. Tweeting in 5.

The SCOTUS decision in WV v. EPA is a setback, but it does not take EPA out of the game. We will move forward using our Clean Air Act authority, consistent with the law, to set greenhouse gas standards for power plants.

<LINK TO PBS INTERVIEW>

Sent from my iPhone

On Jun 30, 2022, at 6:34 PM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Awesome, thanks!

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 7:34 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ex. 5 Attorney Client (AC)

Best,

Jeff

From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 7:24 PM
To: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel

<conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ok then, we are going to propose the original to him.

Ex. 5 Attorney Client (AC)

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 7:07 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Joe gets the deciding vote!

Pleasure to work with you all!

Jeff

From: Goffman, Joseph <Goffman.Joseph@epa.gov>
Sent: Thursday, June 30, 2022 7:02 PM
To: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel <conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Ex. 5 Attorney Client (AC)

Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Sent: Thursday, June 30, 2022 6:57 PM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Conrad, Daniel

<conrad.daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Draft Tweet for Review

Hi all,

Ex. 5 Attorney Client (AC)

Best,

Jeff

Jeffrey M. Prieto
General Counsel
U.S. Environmental Protection Agency
Office of General Counsel
1200 Pennsylvania Avenue, NW
Washington, DC 20460
T: 202-564-8040
E: Prieto.jeffrey@epa.gov

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From: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Sent: Thursday, June 30, 2022 6:33 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>
Cc: Niebling, William <Niebling.William@epa.gov>; Flom, Hannah <Flom.Hannah@epa.gov>; Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>
Subject: Draft Tweet for Review

Joe and Jeff,

There is a point the Administrator made in his interview that we'd like to amplify clearly on Twitter. Can you review?

DRAFT - Deliberative

Ex. 5 Attorney Client (AC)

Hannah – will follow-up with you on this.

Thanks,
Lindsay

Lindsay Hamilton
Associate Administrator, Public Affairs

Environmental Protection Agency
Hamilton.Lindsay@epa.gov
202-510-3515 (mobile)
Newsroom | she/her

Appointment

From: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Sent: 6/30/2022 4:28:39 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Utech, Dan [Utech.Dan@epa.gov]; McCabe, Janet [McCabe.Janet@epa.gov]; Niebling, William [Niebling.William@epa.gov]; Laverdiere, Maria [Laverdiere.Maria@epa.gov]; Cortez Russell, Loni [Russell.Loni@epa.gov]; Rosemary Enobakhare [Enobakhare.Rosemary@epa.gov]; Lucey, John [Lucey.John.D@epa.gov]; Arroyo, Victoria [Arroyo.Victoria@epa.gov]; Millett, John [Millett.John@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Michalos, Maria [Michalos.Maria@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Harney, Alethea [Harney.Alethea@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; DeLuca, Isabel [DeLuca.Isabel@epa.gov]; Cope, Grant [Cope.Grant@epa.gov]; Cassady, Alison [Cassady.Alison@epa.gov]; Bascomb, Desiree [Bascomb.Desiree@epa.gov]
BCC: DCRoomWJCN3415/AOOPA [DCRoomWJCN3415AOOPA@epa.gov]

Subject: Confirmed - SCOTUS Check-In
Location: Microsoft Teams Meeting

Start: 6/30/2022 4:30:00 PM
End: 6/30/2022 5:00:00 PM
Show Time As: Busy

Optional Attendees: Srinivasan, Gautam; Conrad, Daniel; Prieto, Jeffrey; Utech, Dan; McCabe, Janet; Niebling, William; Laverdiere, Maria; Cortez Russell, Loni; Rosemary Enobakhare; Lucey, John; Arroyo, Victoria; Millett, John; Goffman, Joseph; Michalos, Maria; Carroll, Timothy; Harney, Alethea; Carbonell, Tomas; DeLuca, Isabel; Cope, Grant; Cassady, Alison; Bascomb, Desiree

Holding time for a quick briefing for external affairs teams and others following the SCOTUS decision.

Agenda: OGC analysis, Q&A.

Meeting time could change.

Please forward as you'd like.

Microsoft Teams meeting

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Alternate VTC instructions

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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Appointment

From: McCabe, Janet [McCabe.Janet@epa.gov]
Sent: 7/1/2022 12:20:13 PM
To: McCabe, Janet [McCabe.Janet@epa.gov]; Goffman, Joseph [Goffman.Joseph@epa.gov]; Carbonell, Tomas [Carbonell.Tomas@epa.gov]; Giles, Cynthia [Giles.Cynthia@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Profeta, Timothy [Profeta.Timothy@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Birnbaum, Rona [Birnbaum.Rona@epa.gov]; Gunning, Paul [Gunning.Paul@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Hogan, Stephanie [Hogan.Stephanie@epa.gov]; Marks, Matthew [Marks.Matthew@epa.gov]; Hoffman, Howard [hoffman.howard@epa.gov]; Koerber, Mike [Koerber.Mike@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Lassiter, Penny [Lassiter.Penny@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]; Prieto, Jeffrey [Prieto.Jeffrey@epa.gov]; Vijayan, Abi [Vijayan.Abi@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Garfinkle, Stacey [Garfinkle.stacey@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Jordan, Scott [Jordan.Scott@epa.gov]; Greenglass, Nora [Greenglass.Nora@epa.gov]
CC: Monger, Jon [Monger.Jon@epa.gov]; Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Razor, Lila [Razor.Lila@epa.gov]; Conrad, Daniel [conrad.daniel@epa.gov]

Subject: Video-call: SCOTUS Decision
Location: Microsoft Teams Meeting

Start: 7/1/2022 3:30:00 PM
End: 7/1/2022 4:00:00 PM
Show Time As: Busy

Required Attendees: Goffman, Joseph; Carbonell, Tomas; Giles, Cynthia; Grundler, Christopher; Tsirigotis, Peter; Profeta, Timothy; Culligan, Kevin; Birnbaum, Rona; Gunning, Paul; Srinivasan, Gautam; Hogan, Stephanie; Marks, Matthew; Hoffman, Howard; Koerber, Mike; Dunkins, Robin; Lassiter, Penny; Hutson, Nick; Prieto, Jeffrey; Vijayan, Abi; Schramm, Daniel; Garfinkle, Stacey; Li, Ryland (Shengzhi); Jordan, Scott; Greenglass, Nora
Optional Attendees: Monger, Jon; Drinkard, Andrea; Campbell, Ann; Razor, Lila; Conrad, Daniel

---

Microsoft Teams meeting

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Passcode: Ex. 6 Personal Privacy (PP)

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Video Conference ID: Ex. 6 Personal Privacy (PP)
Alternate VTC instructions

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: Ashley, Jackie [Ashley.Jackie@epa.gov]
Sent: 6/30/2022 2:53:16 PM
To: Hutson, Nick [Hutson.Nick@epa.gov]
CC: Noonan, Jenny [Noonan.Jenny@epa.gov]
Subject: Fwd: Press Response - West Virginia v. EPA

Nick - fyi - on the current desk statement.

Begin forwarded message:

From: "Millett, John" <Millett.John@epa.gov>
Date: June 30, 2022 at 10:49:25 AM EDT
To: "Ashley, Jackie" <Ashley.Jackie@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Davis, Alison" <Davis.Alison@epa.gov>, "Bremer, Kristen" <Bremer.Kristen@epa.gov>
Cc: "DeLuca, Isabel" <DeLuca.Isabel@epa.gov>
Subject: FW: Press Response - West Virginia v. EPA

You bet --

From: Conrad, Daniel <conrad.daniel@epa.gov>
Sent: Thursday, June 30, 2022 10:40 AM
To: Michalos, Maria <Michalos.Maria@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Millett, John <Millett.John@epa.gov>; Payne, James (Jim) <payne.james@epa.gov>; Prieto, Jeffrey <Prieto.Jeffrey@epa.gov>; Giles, Cynthia <Giles.Cynthia@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Gilbreath, Jan <Gilbreath.Jan@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Press Response - West Virginia v. EPA

Ex. 5 AC/DP

Message

From: Lassiter, Penny [Lassiter.Penny@epa.gov]
Sent: 6/30/2022 7:33:36 PM
To: Hutson, Nick [Hutson.Nick@epa.gov]; Cozzie, David [Cozzie.David@epa.gov]; McLamb, Marguerite [McLamb.Marguerite@epa.gov]
Subject: FW: SCOTUS decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule
Attachments: West Virginia v EPA slip op. June 30 2022.pdf

Penny Lassiter
Director,
Sector Policies and Programs Division
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Mail Code: E143-01
Research Triangle Park, NC 27711
(919) 541-5396
lassiter.penny@epa.gov

From: Torres, Elineth <Torres.Elineth@epa.gov>
Sent: Thursday, June 30, 2022 10:26 AM
To: Howard, Jodi <Howard.Jodi@epa.gov>; Lassiter, Penny <Lassiter.Penny@epa.gov>
Subject: FW: SCOTUS decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

Email from Howard Hoffman.

Elineth Torres
PSG Acting Group Leader
OAQPS/SPPD
919-541-4347

From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Thursday, June 30, 2022 10:22 AM
To: Swanson, Nicholas < **Subject:** SCOTUS decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

The U.S. Supreme Court issued its decision this morning in West Virginia v. EPA, the case that concerned the Clean Power Plan and the ACE Rule, attached.

Ex. 5 Attorney Client (AC)

We intend to send around a short summary later today, and, if warranted, a more detailed summary in the days to come.

At this time, we are sending a similar email to a smaller group of senior agency managers.

Message

From: Selbst, Elizabeth [selbst.elizabeth@epa.gov]
Sent: 6/30/2022 8:32:53 PM
To: Profeta, Timothy [Profeta.Timothy@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Stenhouse, Jeb [Stenhouse.Jeb@epa.gov]
Subject: RE: Postpone?

No problem – thanks Tim!

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 3:23 PM
To: Selbst, Elizabeth <selbst.elizabeth@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>
Subject: RE: Postpone?

I've actually gotten a conflict – i assume all are also ok rescheduling?

From: Selbst, Elizabeth <selbst.elizabeth@epa.gov>
Sent: Thursday, June 30, 2022 4:22 PM
To: Schramm, Daniel <Schramm.Daniel@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>
Subject: RE: Postpone?

I'm fine keeping the call tomorrow morning.

From: Schramm, Daniel <Schramm.Daniel@epa.gov>
Sent: Thursday, June 30, 2022 10:46 AM
To: Profeta, Timothy <Profeta.Timothy@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Selbst, Elizabeth <selbst.elizabeth@epa.gov>
Subject: RE: Postpone?

Ex. 5 AC/DP

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 11:44 AM
To: Schramm, Daniel <Schramm.Daniel@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Selbst, Elizabeth <selbst.elizabeth@epa.gov>
Subject: RE: Postpone?

Let's keep it – we all can read an opinion only so many times…

Ex. 5 AC/DP

From: Schramm, Daniel <Schramm.Daniel@epa.gov>
Sent: Thursday, June 30, 2022 11:42 AM
To: Profeta, Timothy <Profeta.Timothy@epa.gov>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Selbst, Elizabeth <selbst.elizabeth@epa.gov>
Subject: RE: Postpone?

Up to you – I can probably still talk tomorrow.

Ex. 5 AC/DP

From: Profeta, Timothy <Profeta.Timothy@epa.gov>
Sent: Thursday, June 30, 2022 11:36 AM
To: Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Selbst, Elizabeth <selbst.elizabeth@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>
Subject: FW: Postpone?

Preference?

From: Paul Bailey <pbailey@americaspower.org>
Sent: Thursday, June 30, 2022 11:29 AM
To: Profeta, Timothy <Profeta.Timothy@epa.gov>
Subject: Postpone?

Tim –
I imagine things are hectic there after the SCOTUS decision. It's fine if you want to reschedule for next week.
Paul

Paul Bailey
M: 703.586.2422
pbailey@americaspower.org

Message

From: Swanson, Nicholas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3A03C53D255D4581ACB3CB66F04E5DF1-SWANSON, NICHOLAS]
Sent: 7/1/2022 2:48:36 PM
To: Pastor, Dan [Pastor.Dan@epa.gov]
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

Hey Dan,

Welcome to EPA and glad you got to listen in yesterday.

Ex. 5 Deliberative Process (DP)

This is my non-lawyer explanation and thought process on it but hope it helps. Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

Nick

From: Pastor, Dan <Pastor.Dan@epa.gov>
Sent: Thursday, June 30, 2022 7:40 PM
To: Swanson, Nicholas <Swanson.Nicholas@epa.gov>
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

Hi Nicholas,

I just hired in as an Economist in the HEID/AEG and I listened in today on the chat about the recent SCOTUS ruling. I'm, still getting up to speed with sections 111 and 112 of the CAA so please forgive me if I'm asking a naïve question.

e

Ex. 5 Deliberative Process (DP)

Anyway, thanks for taking the time today. I enjoyed hearing a legal perspective, if only an informal one.

Best,
Dan

From: Swanson, Nicholas <Swanson.Nicholas@epa.gov>
Sent: Thursday, June 30, 2022 10:05 AM
To: Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Hutson, Nick <Hutson.Nick@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Keaveny, Brian <Keaveny.Brian@epa.gov>; Assmus, Phillip <Assmus.Phillip@epa.gov>;

Hoffman, Howard <hoffman.howard@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Profeta, Timothy <Profeta.Timothy@epa.gov>; Sherry, Christopher <Sherry.Chris@epa.gov>; Birnbaum, Rona <Birnbaum.Rona@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; LaCount, Melanie <LaCount.Melanie@epa.gov>; Fellner, Christian <Fellner.Christian@epa.gov>; Honda, Gregory <honda.gregory@epa.gov>; Sims, Ryan <Sims.Ryan@epa.gov>; Marcy, Cara <marcy.cara@epa.gov>; Eschmann, Erich <Eschmann.Erich@epa.gov>; Sugerik, Corey <Sugerik.Corey@epa.gov>; Callihan, Ryan <Callihan.Ryan@epa.gov>; Vetter, Cheryl <Vetter.Cheryl@epa.gov>; Huetteman, Justine <huetteman.justine@epa.gov>; Argentieri, Sabrina <argentieri.sabrina@epa.gov>; Torres, Elineth <Torres.Elineth@epa.gov>; Lalani, Imran <Lalani.Imran@epa.gov>; Greenglass, Nora <Greenglass.Nora@epa.gov>; Ashley, John <ashley.john@epa.gov>; Caparoso, Jennifer <Caparoso.Jennifer@epa.gov>; Benish, Sarah <Benish.Sarah@epa.gov>; Weatherhead, Darryl <Weatherhead.Darryl@epa.gov>; Macpherson, Alex <Macpherson.Alex@epa.gov>; Landau, Rebecca <Landau.Rebecca@epa.gov>; Lawson, John <Lawson.John@epa.gov>; Smith, Korbin <smith.korbin@epa.gov>
Cc: Pastor, Dan <Pastor.Dan@epa.gov>; Sasser, Erika <Sasser.Erika@epa.gov>; Choudhury, Mayesha <Choudhury.Mayesha@epa.gov>
Subject: RE: Discussion/debrief of SCOTUS decision - WV vs EPA

I am sure that there will be good summaries in short order, but attached is the SCOTUS opinion

-----Original Appointment-----
From: Swanson, Nicholas
Sent: Tuesday, June 28, 2022 4:18 PM
To: Swanson, Nicholas; Stenhouse, Jeb; Hutson, Nick; Culligan, Kevin; Keaveny, Brian; Assmus, Phillip; Howard Hoffman (hoffman.howard@epa.gov); Vijayan, Abi; Adamantiades, Mikhail; Ashley, Jackie; Profeta, Timothy; Sherry, Christopher; Birnbaum, Rona; Hogan, Stephanie; LaCount, Melanie; Fellner, Christian; Honda, Gregory; Sims, Ryan; Marcy, Cara; Eschmann, Erich; Sugerik, Corey; Callihan, Ryan; Vetter, Cheryl; Huetteman, Justine; Argentieri, Sabrina; Torres, Elineth; Lalani, Imran; Greenglass, Nora; Ashley, John; Caparoso, Jennifer; Benish, Sarah; Weatherhead, Darryl; Macpherson, Alex (Macpherson.Alex@epa.gov); Landau, Rebecca; Lawson, John; Smith, Korbin
Cc: Pastor, Dan; Sasser, Erika; Choudhury, Mayesha
Subject: Discussion/debrief of SCOTUS decision - WV vs EPA
When: Thursday, June 30, 2022 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

No SCOTUS decision today so rescheduling.

Open forum to discuss the debrief. Time set aside to discuss the SCOTUS decision on West Virginia vs EPA for those that desire (provided we receive the decision on Wednesday). Feel free to forward others that might have interest

---

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Or call in (audio only)
+1 984-444-7480,957860028# United States, Raleigh

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