Message

From: Chancellor, Erin [chancellor.erin@epa.gov]
Sent: 3/28/2019 5:55:49 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Mclain, Jennifer [Mclain.Jennifer@epa.gov]; Ross, David P [ross.davidp@epa.gov]
CC: Bodine, Susan (EPW) [Susan_Bodine@epw.senate.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]
Subject: RE: Follow up on our PFAS Conversation
Attachments: PFAS Cannon AFB Fact Sheet 3-28-19.docx; PFAS Holloman AFB Fact Sheet 3-28-19.docx

Sensitivity: Private

Both briefing sheets attached. In an effort to get the info to y'all ASAP, I did not pare them down to AW's usual briefing sheet specifications.

If you need anything else, please let me know.

Thanks,

Erin E. Chancellor
Chief of Staff | Office of the Regional Administrator
U.S. EPA Region 6
214.665.2112 (o) | 214.601.1292 (c)
chancellor.erin@epa.gov

From: Forsgren, Lee
Sent: Thursday, March 28, 2019 11:46 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>; Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Ross, David P <ross.davidp@epa.gov>
Cc: Bodine, Susan (EPW) <Susan_Bodine@epw.senate.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>
Subject: RE: Follow up on our PFAS Conversation
Sensitivity: Private

Probably should be a separate briefing paper – that way Troy's folks could put both in the member specific area for Senator Udall. That way he has materials on both sites.

From: Chancellor, Erin
Sent: Thursday, March 28, 2019 12:43 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Ross, David P <ross.davidp@epa.gov>
Cc: Bodine, Susan (EPW) <Susan_Bodine@epw.senate.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Follow up on our PFAS Conversation
Sensitivity: Private

Do you want info on Cannon Air Force Base, too? Outside of Clovis, NM.

Erin E. Chancellor
Chief of Staff | Office of the Regional Administrator
U.S. EPA Region 6

214.665.2112 (o) | 214.601.1292 (c)
chancellor.erin@epa.gov

From: Forsgren, Lee
Sent: Thursday, March 28, 2019 11:41 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>; Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Ross, David P <ross.davidp@epa.gov>
Cc: Bodine, Susan (EPW) <Susan_Bodine@epw.senate.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Follow up on our PFAS Conversation
Sensitivity: Private

That works for us.

From: Chancellor, Erin
Sent: Thursday, March 28, 2019 12:40 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Ross, David P <ross.davidp@epa.gov>
Cc: Bodine, Susan (EPW) <Susan_Bodine@epw.senate.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Follow up on our PFAS Conversation
Sensitivity: Private

Unless y'all have something in the works, I'll get a first draft from R6- calling our folks now.

Erin E. Chancellor
Chief of Staff | Office of the Regional Administrator
U.S. EPA Region 6
214.665.2112 (o) | 214.601.1292 (c)
chancellor.erin@epa.gov

From: Forsgren, Lee
Sent: Thursday, March 28, 2019 11:37 AM
To: Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Ross, David P <ross.davidp@epa.gov>
Cc: Bodine, Susan (EPW) <Susan_Bodine@epw.senate.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Follow up on our PFAS Conversation
Sensitivity: Private

Jenifer,

Can you have the PFAS team work with R6 to put together a Briefing paper on the Holloman AFB issue ASAP. This is almost certain to come up next week in the Senate Appropriations hearing from Senator Udall.

Regards,
Lee

From: Kenney, James, NMENV <James.Kenney@state.nm.us>
Sent: Thursday, March 28, 2019 12:21 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>

Subject: RE: Follow up on our PFAS Conversation
Sensitivity: Private

Good morning, Lee and great to see you this week! The attached photos were taken by NMED staff at Lake Holloman by Holloman AFB near White Sands. We have not discussed these photos with the USAF nor sampled Lake Holloman yet as we are developing a scientific and legal approach. This includes evaluating approaches outside of environmental statutes and laws.

We have not observed these issues at Cannon AFB which is where we have impacts to groundwater that may now threaten the public drinking water system for Clovis (~40k people) and has already impacted agriculture (i.e., dairies).

We recently sampled areas around both bases and awaiting sampling data results that we have committed to share publicly. The data we based our ISE action on is public already. The best way for me to share this with you is by pointing you to this article: http://nmpoliticalreport.com/2019/02/02/2018-report-shows-off-the-charts-contamination-in-holloman-afb-water/

Our complaint is also available online: https://www.env.nm.gov/wp-content/uploads/2019/03/File-Stamped-Complaint.pdf

Thanks for your assistance and that of the Administrator.

Thank you,
James C. Kenney
Cabinet Secretary
New Mexico Environment Department
1190 St. Francis Drive |Santa Fe, New Mexico 87505
Office: (505) 827-2855 | Mobile: (505) 470-6161
Twitter: @NMEnvDep | #IamNMED
www.env.nm.gov

This email, including attachments, is for the sole use of the intended recipient(s) and may contain confidential or privileged information. If you are not the intended recipient, kindly let me know and delete the message. Namaste.

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Thursday, March 28, 2019 8:29 AM
To: Kenney, James, NMENV <James.Kenney@state.nm.us>
Subject: [EXT] Follow up on our PFAS Conversation
Sensitivity: Private

Jim,

Could you send me the photos and any general background you have on the PFAS issues (particularly those regarding the lake Holloman and the issues near Cooper AFB) that we discussed when I was in Albuquerque Tuesday. We would really appreciate any known levels of PFAS levels that you have found.

Any assistance you could provide would be most helpful. I spoke to the Administrator about our discussion this morning and he wants the State of New Mexico to know that we stand ready to help but any information you could provide would be helpful..

Regards,
Lee

D. Lee Forsgren

Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania, Avenue NW
Room 3219B WJC East Building
Washington, DC 20460
202-564-5700

BACKGROUND

- PFAS has been around since 1945 and are found in cooking surfaces (Teflon®), fire-fighting foams, toothpaste, shampoos, cosmetics, food containers and contact paper, Gore-Tex®, cleaning products, and stain repellants on carpets and upholstery.
- Some of these compounds have been used in large volumes as Aqueous Film Forming Foam, or Fire-Fighting Foams (AFFF) for fighting petroleum fires (e.g., aircraft crashes).
- The Office of Water issued a lifetime health advisory (HA) number of 70 ng/l (or 70 ppt) as the cumulative screening level for PFOA/PFOS in drinking water in May 2016.
- Cannon AFB (Cannon) was issued a RCRA Operating Permit for container storage in 1989 by the New Mexico Environment Department (NMED) with requirements for site-wide corrective action. NMED issued the RCRA permit renewal for Corrective Action only on December 19, 2018, with an effective date of January 18, 2019.

CURRENT STATUS

- January 17, 2019: U.S. Department of Justice (DOJ), on behalf of the U.S. Air Force (USAF), filed suit in U.S. District Court for the District of NM challenging the RCRA permit's definition of hazardous waste that includes PFAS compounds. The complaint says that the permit's definition is inconsistent with both RCRA and the NM Hazardous Waste Act and is barred by sovereign immunity.
- February 18, 2019: In response to the DOJ filing, NMED filed a motion to dismiss, or in the alternative, a motion for a more definitive statement from the U.S., stating the Plaintiff's Complaint is inadequate as a matter of law and fact because it fails to allege any specific inconsistencies between the Permit, RCRA, and the New Mexico Hazardous Waste Act.
- March 5, 2019: State of NM and NMED filed an imminent and substantial endangerment complaint against USAF at Cannon and Holloman for PFAS releases into the environment.
- November 2018: Just prior to the lawsuit, EPA started working with NMED (as well as USGS and USAF), to scope out groundwater modeling goals and methods and participate on a hydrogeology technical working group for PFAS. Those activities are now on hold.
- Cannon AFB is investigating PFAS under the direction of the NMED Hazardous Waste Bureau, RCRA Permit, as well as the NMED Groundwater Quality Bureau.
- August 2018: A Site Inspection Report (SIR) was completed at Cannon, with the purpose of determining, through environmental media sampling of soil, groundwater, sediment, and/or surface water, if a release of PFAS has occurred at 14 potential AFFF release areas.
- Sample results for Cannon indicate PFAS contamination across the base, including in the groundwater at depths >300 feet.
- Potential human exposure receptors of PFAS in groundwater via the ingestion pathway include residents of properties downgradient of identified groundwater release areas that currently obtain drinking water from private (domestic or domestic and livestock) water supply wells.
- USAF sampled 25 drinking water sources near the southeast corner of the installation. If residential wells were impacted above the EPA HA, bottled water was provided.
- October 31, 2018-November 19, 2018: NM Department of Health (NMDH) and NMED sampled 90 private drinking water wells around the Cannon area for 6 PFAS compounds (PFBS, PFHpA, PFHxS, PFNA, PFOS, PFOA). Of those 90 samples, 89 samples were non-detect for the 6 PFAS compounds. The one sample that had a detection was for 6.87 ppt PFHxS and at a location that USAF had already tested for near the base.

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- Rajen Dairy is located east of Cannon. A water storage tank (with multiple wells supplying it) had a PFOA+PFOS concentration of 146 ppt.
- Highland Dairy is located southeast of Cannon. A water storage tank (with multiple wells supplying it) had a PFOA+PFOS concentration of 1,649 ppt. A private residential well had a PFOA+PFOS concentration of 671 ppt. USAF is providing bottled water to the well owner. Since PFAS has been detected in the milk produced by Highland Dairy, the owner is discarding 15,000 gallons of milk/day because it cannot be sold.
- Two diaries (Highland on January 28, 2019 and Star on February 5, 2019) have filed notices of intent to sue under RCRA. Both pleadings are factually and legally very similar. They involved separate dairies located near Cannon. The dairy cattle are watered from wells onsite. In addition, the dairies irrigate their hayfields with this groundwater. Both the cattle and fields were contaminated with PFAS that were in the groundwater allegedly originating from Cannon. The dairies intend to sue under RCRA § 7003 (i.e., imminent and substantial endangerment provision) through the RCRA citizen suit provision. In their request for relief, they ask USAF to stop the contaminated groundwater from reaching their property, treatment and remediation of their supply wells, and that additional monitoring wells be installed.
- There are several additional cattle dairies within 4 miles of the SE corner of Cannon.

ENVIRONMENTAL/PUBLIC HEALTH CONCERNS

- NMDH is aware of the PFAS concerns and potential impacts to residents and businesses (***the potential*** to be in dairy cow's milk). Regional ATSDR contacts are also coordinating.
- USAF sought information on PFAS uptake in cattle from impacted water, as well as hay that is irrigated with impacted water, and then used as cattle feed. The States of Vermont and New York have developed FAQs on PFOA and Agricultural Products that have been shared.

TECHNICAL CONCERNS

- Longer-chain PFASs, including PFOA and PFOS, are persistent, toxic, mobile, and bio accumulative. PFAS can be treated with Granulated Active Carbon (GAC) or reverse osmosis.

REGULATORY/LEGAL REQUIREMENTS

- Pursuant to the [HYPERLINK "https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf"], EPA is developing Interim Recommendations for addressing groundwater contaminated with PFOA/PFOS to support site-specific cleanup efforts. When finalized, the guidance will provide interim recommendations at sites being evaluated and remediated under the EPA's CERCLA federal cleanup program or at federal-led RCRA corrective action sites. The information and recommendations in the [HYPERLINK "https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf"] may also be useful for other federal agencies, states, tribes, or other regulatory authorities (e.g., approved state RCRA corrective action programs).
- If EPA finds that there may be an imminent and substantial endangerment to public health related to PFAS contamination, EPA will consider using its response authority under CERCLA § 104 or utilizing its enforcement authorities such as the SDWA § 1431 or RCRA § 7003.

COMMUNITY CONCERNS

- USAF has been in contact with potentially impacted residents.

- On November 8th and 9th, NMDH, NM Department of Agriculture (NMDA), NMED, EPA, FDA, ATSDR, CDC, and USAF met with the Dairy Association and local officials.
- November 9, 2018: Held public meeting in Clovis, NM to hear community's PFAS concerns.
- Interest from NM Governor Michelle Lujan Grisham, Congressman Ben Ray Lujan, Senator Tom Udall, and Senator Martin Heinrich.

BACKGROUND

- PFAS has been around since 1945 and are found in cooking surfaces (Teflon®), fire-fighting foams, toothpaste, shampoos, cosmetics, food containers and contact paper, Gore-Tex®, cleaning products, and stain repellants on carpets and upholstery.
- Some of these compounds have been used in large volumes as Aqueous Film Forming Foam, or Fire-Fighting Foams (AFFF) for fighting petroleum fires (e.g., aircraft crashes).
- The Office of Water issued a lifetime health advisory (HA) number of 70 ng/l (or 70 ppt) as the cumulative screening level for PFOA/PFOS in drinking water in May 2016.
- Holloman Air Force Base (HAFB) is in south central New Mexico, approximately 75 miles north-northeast of El Paso, Texas. HAFB occupies approximately 59,830 acres. The U.S. Army's White Sands Missile Range testing facilities and White Sands National Monument occupy additional land extending north and west from the base. Private and publicly-owned lands border the remainder of HAFB. Alamogordo, which has a population of approximately 31,000, is located approximately seven miles east.
- HAFB was first established in 1942 as Alamogordo Army Air Field (AAF). From 1942 through 1945, AAF served as the training grounds for over 20 different flight groups, flying primarily B17s, B-24s, and B-29s. After World War II, most operations had ceased at the base. In 1947, Air Material Command announced the air field would be its primary site for the testing and development of un-manned aircraft, guided missiles, and other research programs. On January 13, 1948, the Alamogordo installation was renamed Holloman Air Force Base. In 1968, the 49th Tactical Fighter Wing arrived at HAFB and has remained, under differing iterations, ever since. Today, HAFB also serves as the location of the German Air Force Tactical Training Center.

CURRENT STATUS

- Holloman AFB was issued a RCRA Permit in 2004 by the New Mexico Environment Department (NMED) with requirements for site-wide corrective action. A permit renewal application for corrective action and post-closure care was submitted in 2015 and is currently under NMED review.
- A PFAS Site Inspection Report (SIR) was completed in November 2018 at Holloman AFB. The purpose of the SIR was to determine, through environmental media sampling of soil, groundwater, sediment, and/or surface water, if a release of PFAS has occurred at 5 potential AFFF release areas.
- Sample results for Holloman AFB indicate concentrations of PFAS in the groundwater monitoring wells ranged from non-detect to 1,040,000 ppt at depths to 31 feet (see table below). The samples were taken adjacent to the actual areas of the AFFF PFAS releases. The sample with the highest concentration is located adjacent to the unlined "evaporation" pond where the used AFFF (containing PFAS) was sent (see aerial photo below). The top of the drinking water aquifer is over 450 feet below ground. **No drinking water wells have been impacted.** Additional investigations are on-going.
- On March 5, 2019, the State of New Mexico and NMED filed an imminent and substantial endangerment complaint against the US Air Force at Cannon AFB and Holloman AFB for releases of PFAS into the environment.
- In comparison to Cannon AFB, the data collected from ***drinking water wells*** **near** Cannon AFB had a maximum concentration of **671 ppt** in a residential well, and an agricultural well (that may have also been used as a human drinking water well) had a concentration of **1,649**

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ppt. These ***drinking water samples*** were collected from a depth of over ***325 feet, and are located approximately ¼ to ½ mile from the base boundary.*** Cannon AFB did not collect any samples above a depth of 325 feet. There are no shallow aquifers at Cannon AFB. Cannon AFB had a PFOA/PFOS detection of **26,200 ppt at a depth of 346 feet** on Base in Monitoring Well MW-CA.

- Holloman AFB has high concentrations of PFAS in the shallow alluvium, but that water is Class 3, and is not used for human consumption or agricultural use where the plume is located. Drinking water for Holloman is obtained from 15 wells at a depth of 450 feet below ground. Those wells were sampled for PFAS and no detections were reported. A Remedial Investigation needs to be conducted at Holloman, however, based on the preliminary data to address screening level exceedances, there are not any complete drinking water exposure pathways. At Cannon AFB, we know that that drinking water and ag water have been impacted.

ENVIRONMENTAL/PUBLIC HEALTH CONCERNS

- The New Mexico Department of Health and the NMED Ground Water Bureau are aware of the PFAS SIR concentrations.

TECHNICAL CONCERNS

- Longer-chain PFASs, including PFOA and PFOS, are persistent, toxic, mobile, and bio accumulative.
- PFAS can be treated with Granulated Active Carbon (GAC) or reverse osmosis.

REGULATORY/LEGAL REQUIREMENTS

- Pursuant to the [HYPERLINK "https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf"], the EPA is developing Interim Recommendations for addressing groundwater contaminated with PFOA and PFOS to support site-specific cleanup efforts. When finalized, the guidance will provide interim recommendations at sites being evaluated and remediated under the EPA's CERCLA federal cleanup program or at federal-led RCRA corrective action sites. The information and recommendations in the [HYPERLINK "https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf"] may also be useful for other federal agencies, states, tribes, or other regulatory authorities (e.g., approved state RCRA corrective action programs).
- If the EPA finds that there may be an imminent and substantial endangerment to public health related to PFAS contamination, the Agency will consider using its response authority under CERCLA section 104 or utilizing its enforcement authorities such as the SDWA §1431 or RCRA §7003.

COMMUNITY CONCERNS

- Interest from NM Governor Michelle Lujan Grisham, Congressman Ben Ray Lujan, Senator Tom Udall, and Senator Martin Heinrich.

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 12/14/2018 7:38:40 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]; Lyons, Troy [lyons.troy@epa.gov]; Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: RE: re - Dunn
Attachments: Carper 12-14-18 (Lautenberg Act) EPAbestofferEPWedits.docx

Here you go – cleaned up a lot. Thank you. see the fewer remaining areas to resolve.

Thanks and enjoy your weekends
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, December 13, 2018 5:44 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: re - Dunn

I have gone through this with career and political program staff and agency leadership today a lot of the day. The attached is my best. I'm glad to explain it and would like to explain it specifically about managing honoring the commitments in the letter in a time frame which works. I have some challenges better explained in a conversation. Let me know when might work to do that.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Wednesday, December 12, 2018 3:29 PM
To: Jackson, Ryan
Cc: Repko, Mary Frances (EPW) ; Lyons, Troy
Subject: RE: re - Dunn

Here you go - we are getting there. I tried to clean it up to get rid of the redlines on agreed text. Please see the comment boxes for responses/explanations.

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan
Sent: Tuesday, December 11, 2018 7:18 PM
To: Freedhoff, Michal (EPW)

Cc: Repko, Mary Frances (EPW) ; Lyons, Troy
Subject: RE: re - Dunn

I was hoping to get you something by Dec 7, but that slipped. We have discussed this thoroughly here. I would be glad to go through this point by point.

I would imagine that the Peter Wright nomination hit some questions. I wanted to check on its status too.

Thanks.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, December 4, 2018 7:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: re - Dunn

All

I'm attaching our edits to this draft and appreciate your continued willingness to discuss further. I also need to flag for you the disappointment and concern that a number of our Members have expressed to us in the responses to the qfrs, disappointment which we also share. We agreed to a tight turn-around time on the questions in order to help EPA process the nomination before sine die. The responses we received as a result of that agreement were not just rushed and superficial – frankly, many of us felt like they were disrespectful and dismissive. As a result, our Members are feeling less optimistic about this nominee than they did before. That said, we do want to try –

So what's attached fall into a few basic categories (and again, I tried to comment box some rationales, which you won't see on your phones)

- We have added tweaks or additional specificity to things we think you have in principle agreed to do
- We have added a couple of items we have had on our list that your draft did not address that are important to our Members (some of whom have conveyed them – again – as part of their expressions of concern about qfrs and live hearing questions they asked on the topics)
- We added one new item we have not previously discussed (safer choice) that is there just because it seemed like a very easy qfr to respond to appropriately, it was not responded to well, and two Member offices then asked for it to be included. I don't think it's a heavy lift for you, and really it should have been handled in qfrs but wasn't.

Let us know what your thoughts are – we will be here tomorrow, even though the federal govt is closed.

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, December 3, 2018 5:09 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: re - Dunn

I don't want too much more time to lapse on getting this draft to you. I have reviewed this with leadership here who are comfortable with more transparency reflected in the draft and willing to talk further. I think the language highlighted in green in the letter is pretty strong to the point of making some stakeholders angry. However, it's what we need to do. Please review and let me know your thoughts.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Wednesday, November 28, 2018 4:52 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: re - Dunn

Thanks for starting to work through these earlier. Here is a new list, recognizing that we haven't resolved or in some cases even discussed some of them. I've taken 5 things off the earlier 15-item list that appeared from our discussion to be not quickly resolvable, and note that among those things, the worker/SNUR/consent order and MC are likely to be raised by Members tomorrow and are important items that we nevertheless recognize are not likely to be doable in this context and in this timeframe. I've left ethylene oxide in just as a continued flag to you.

I'm also including our response, in caps, to a couple of the items we did discuss earlier. See esp 5 and 8 but a few other places as well.

Green highlight means I think we are resolved and just need to figure out words for a letter – thank you.

Let me know when we should resume this conversation – obv after the hearing is better for me. We've also started describing the Wright state of play to people in advance of having final agreed-upon letter text.

Michal

1. **PMN transparency measures** — EPA has reduced the information that is available to the public as it evaluates PMNs. We would like this remedied by 1/15/19, and would like the following materials be made available:
   - Each PMN and its attachments, all amendments, correspondence with EPA, and other supporting documentation in an electronic docket within 15 days of receipt of the PMN; and publication of the FR notice of receipt required under 5(d) within 30 days of PMN receipt.
   - EPA's underlying risk assessment documents that support each "not likely to present an unreasonable risk" determination EPA makes on PMNs, at the same time that the determination is communicated to the PMN submitter and posted on EPA's website.
   - EPA career staff's "interim recommendation" on each PMN substance undergoing review.

We can place PMNs and associated documents ~~on EPA's website~~ IN ELECTRONIC DOCKETS ON REGULATIONS.GOV [YOUR REGULATIONS REQUIRE THIS] ~~but can't commit to~~ within 15 days ~~because the CBI comb through takes longer than that~~ [WHY IS EPA DOING THE CBI COMB WHEN THE APPLICANTS ARE SUPPOSED TO PROVIDE YOU WITH PUBLICLY RELEASABLE VERSIONS OF THE DOCUMENTS THEY SEND YOU? WHY NOT JUST ENFORCE YOUR OWN REQUIREMENTS?]. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly [NOTE THAT YOU ARE CURRENTLY 3-6 MONTHS BEHND IN POSTING ANYTHING. GIVEN THE 90 DAY DEADLINE FOR PMN REVIEW, THE DEADLINES HIGHLIGHTED ABOVE FOR PUBLIC POSTING REALLY NEED TO BE THE DEADLINES]:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific AND CAS NUMBER IF NOT CBI, or generic name if CBI).
- TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.

- NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.
- EPA'S UNDERLYING RISK ASSESSMENT DOCUMENTS THAT SUPPORT EACH "NOT LIKELY TO PRESENT AN UNREASONABLE RISK" DETERMINATION EPA MAKES ON PMNS, AT THE SAME TIME THAT THE DETERMINATION IS COMMUNICATED TO THE PMN SUBMITTER AND POSTED ON EPA'S WEBSITE.
- EPA CAREER STAFF'S "INTERIM RECOMMENDATION" ON EACH PMN SUBSTANCE UNDERGOING REVIEW.

2. **Section 5 framework:** EPA released a framework on how it would implement section 5 about a year ago, and held a public meeting and received written comments on it. While EPA appears to have subsequently made changes to the manner in which it is evaluating new chemicals, it has never modified or re-published this framework document to reflect those changes. We would like EPA to commit to publicly release a revised section 5 framework document by ~~1/15/19~~ 1/31/19 [THIS GIVES YOU 60 DAYS PER BELOW] that includes EPA's legal justifications for it, and take additional public comments on it.

From RJ:
We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued [UNDERSTOOD, BUT IN THE SAME WAY A PROPOSED RULE THEN INCORPORATES COMMENTS AND IS RELEASED IN FINAL FORM, THAT NEEDS TO HAPPEN ON THEFRAMEWORK ALSO. IT ISN'T ENOUGH TO BRIEF THE COMMITTEE, THOUGH THAT IS ALWAYS APPRECIATED. CAN YOU COMMIT TO PUBLISH THE NEXT VERSION OF THE FRAMEWORK BY 1/31/19, INCLUDE LEGAL JUSTIFICATION FOR WHATEVER IT SAYS, HOLD A PUBLIC MEETING AND TAKE ADDITIONAL PUBLIC COMMENTS, AND BRIEF THE COMMITTEE. I ALSO ASSUME THAT THE NEW DOCUMENT WILL INCLUDE THE 'NOT LIKELY' INFORMATION YOU REFERENCED BUT THAT WON'T BE ALL IT INCLUDES. I DIDN'T EDIT THE WORDS ABOVE OTHER THAN THE DATE BECAUSE IT WASN'T 100% CLEAR TO ME THAT WE WERE TALKING ABOUT THE SAME DOCUMENT.

3. **CBI substantiation**– Section 14(c)(3) of new TSCA requires submitters of information to substantiate CBI claims. In addition, recognizing EPA's responsibility to weed out unwarranted CBI claims, section 14(g)(1)(A) requires EPA to review and either approve or deny CBI claims within 90 days of receipt. Under section 14(g)(1)(C), this review process must address all CBI claims for chemical identity and a representative subset of other claims comprising at least 25 percent of the total submitted. It is hard to see whether all of those things are happening, because so much of the PMN submittals and EPA's review thereof are redacted. Could EPA commit to issuing a report by July 1, 2019 that describes its efforts to comply with the CBI requirements in sections 14(c)(3) and 14(g)(1), and seek public comment and recommendations for improved management and review of CBI claims?

From RJ: We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements WE DO WANT A REPORT ON THIS AS DESCRIBED ABOVE, BUT I NOTE THAT SECTION 26(j)(1) REQUIRES THAT EACH CBI CLAIM DETERMINATION HAS TO BE MADE PUBLIC, AND EPA HAS YET TO MAKE A SINGLE ONE PUBLIC. SAME WITH UNIQUE IDENTIFIERS. A REPORT ON WHAT YOU ARE DOING AND WHEN YOU WILL IMPLEMENT THE LAW IS THE MOST MINIMAL THING WE COULD ASK FOR IN THIS SPACE. AT THE VERY LEAST, THE REPORT SHOULD BE DETAILING THE NUMBER OF CLAIMS MADE, NUMBER OF DECISIONS MADE, INCLUDE COMMITMENTS FOR HOW AND WHEN THESE DECISIONS WILL BE PUBLICLY DOCUMENTED ON SOME TRACKING DATABASE, AND SO FORTH.

4. **CBI re-substantiation -** new TSCA says that "[t]he Administrator may require any person that has claimed protection for information from disclosure under this section, whether before, on, or after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to reassert and substantiate or re-substantiate the claim in accordance with this section— (A) after the chemical substance is designated as a high-priority substance under section 6(b) …" 15 USC 2613(f)(1). We would like EPA to commit to undertake re-substantiation of CBI claims for chemical substances undergoing REs, and make public any information for which the CBI claim(s) are no longer valid before the draft RE is published for comment.

From RJ: and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29.
THIS SHOULD INCLUDE ALL CHEMICALS THAT ARE UNDERGOING RES, INCLUDING THE FIRST TEN. PERHAPS FOR THE FIRST TEN, IT COULD BE SOONER THAN 45 DAYS BEFORE THE END OF THE COMMENT PERIOD ON THE RE, AND FOR FUTURE CHEMICALS UNDERGOING RES, IT COULD BE BEFORE THE SCOPE OF THE RE IS PUBLISHED (SO WOULD GIVE 6 MONTHS BTW PRIORTIZING AND PUBLISHING THE SCOPE)? AS PART OF RESUBSTANTIATION, EPA SHOULD BE MAKING THE DETERMINATIONS PUBLIC AS WELL AS ANY INFORMATION THAT NO LONGER QUALIFIES FOR CBI PROTECTION.

5. **Systematic review** – OCSPP has developed its own systematic review document even though ORD's has been largely blessed by the NAS. We'd like the OCSPP version to be withdrawn and/or not used until it is reviewed by NAS, and NAS feedback incorporated.

WE TALKED ABOUT SAB REVIEW AND I DON'T THINK THIS WORKS. NAS HAS DONE REVIEWS OF SIMILAR PROTOCOLS NOT JUST FOR ORD BUT FOR NIEHS, UCSF AND OTHERS. THIS ONE IS A HIGH PRIORITY.

6. **PFAS SNUR** – EPA proposed its PFAS SNUR in 2015, and EPA has repeatedly said it is revising it to reflect new TSCA but planned to finalize it. We'd like a commitment that it be finalized by a date certain and assurance that its scope has not changed from what was proposed. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the language you're currently using In that document and seeing if that language can be sent to TC in a letter.

From RJ: The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.
DISCUSSED SOLUTION THAT IS ANALOGOUS TO THE ONE FOR THE PFAS CERCLA DESIGNATION

7. **PFAS information -** EPA has acknowledged that it lacks information about many PFAS chemicals. We would like EPA to commit to use EPA's authority under TSCA Section 8(a)(2) to require PFAS manufacturers and processors to submit information concerning the production, use, and impacts of PFAS chemicals. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the language you're currently using In that document and seeing if that language can be sent to TC in a letter. If there are other ways to get this information (section 4 orders, for example), we are definitely open.

8. **Comment period and peer review of risk evaluations:** We would like a 120 day comment period for the rest of the first 10 REs. They're the first REs to be conducted under the new law and many of them will be released for public comment simultaneously, which will be difficult for commenters to handle. We would also like to ensure that CSAC is properly set up for a separate peer review of each of the REs, and can suggest some measures that could help with that. These include augmenting the CSAC with chemical-specific expertise if necessary (and allow the public to suggest new chemical-specific reviewers as it has in other similar situations), ensuring that CSAC members reviewing particular REs do not have conflicts of interest associated with the particular chemical, providing separate CSAC peer review documents for each RE so that the public can understand the nature of the CSAC input, and respond in each final RE to public comments and peer reviewer input. If needed, EPA has the additional 6 month extension TSCA provided in which to take these measures, which I know is non-ideal, but these are the first ten and probably need more attention.

YOU NOTED THE CONCERN ASSOCIATED WITH DOUBLING THE PLANNED 60 DAY REVIEW TIMEFRAME, AND I AGREED TO THINK ABOUT SOME MIDDLE GROUND. HOW ABOUT SOMETHING LIKE THIS

- NO LESS THAN 90 DAYS
- STAGGER THE RELEASES SUCH THAT EPA WOULD RELEASE NO MORE THAN 3 RES AT A TIME AND WITH AT LEAST 30 DAYS BETWEEN RELEASES;
- EPA WILL CONSIDER REQUESTS FROM STAKEHOLDERS ASKING FOR AN EXTENSION AND MAY PROVIDE MORE TIME WHEN JUSTIFIED (E.G., TIME FOR ADDITIONAL ANALYSIS OR ACCESS TO MORE INFORMATION TO COMMENT EFFECTIVELY)

9. **Agricultural Worker Protection Standard (WPS) rule and the Certification of Pesticide Applicators (CPA) rule** – withdraw the proposed modifications to these rules (we believe you already offered to do this and that's basically what the Senate did in PRIA)

From RJ: The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

10. **Ethylene oxide** – no specific request here, but I'm aware of your ongoing dialogue with the Duckworth (and other) offices on this so I'm flagging it as a potential issue of interest.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 1:29 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Attached is a new letter concerning the science rule and SAB.

We have a suggestion on PFAS which you may be more interested in, maybe not.

On the other list, here are items which we can write back to do:

We can place PMNs and associated documents on EPA's website but can't commit to within 15 days because the CBI comb through takes longer than that. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific or generic name if CBI).
- TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
- NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.

We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued.

I can understand the CBI claims and who that's important to in particular. We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29. The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

There may be some more substance to provide on these, but this is about as far as we are able to go on that list. I'm glad to talk about other things on that list, but I'm a best offer kind of a guy without too much effort to low ball and offer. I want to offer what I really think we can do, so that's what this represents.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 11:45 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Thanks! – want to send us what you are proposing back on PFAS and CH2O and SAB as edits to the same letter? On SAB, I think we are fine with the 8 reappointments, the text we sent you about career staff advice, and depending on the call tomorrow we may want to add some document production (forward-looking, a commitment to provide some materials in the future, not before confirmation or a hotline etc), but do not expect to have new requests on policy on the advisory committee front. Happy to work to resolve a final letter text today and then start socializing this to folks.

We are headed in to talk to TC right now but can make time this afternoon if you want to talk through logistics, Dunn, or anything else.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 11:37 AM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

We can accept that edit.

I am strengthening the PFAS answer presently. I need to get some answer concerning formaldehyde so that everyone understands the procedure moving forward, but we can agree to IRIS processing of the chemical.

Finally, I have responses to the list of items concerning Alex, however, we need to have a conversation about it and what happens to all this if Peter and Chad can't get confirmed.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 9:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

The Wehrum letter committed to the future denial of a rulemaking petition before it actually did so, among other commitments made. But in lieu of the first suggested edit, how about this one, which is intended to mirror a commitment to a policy but not specify a rulemaking outcome in a different part of the letter?

Let us know when you want to talk to figure the rest (formaldehyde and PFAS in particular) out. Happy to also share what I'm thinking in terms of process and what we will do to pave the way assuming we get to a good place on the substance.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, November 26, 2018 9:04 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Peter Wright

We didn't propose doing credit for exporting ethanol.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Nov 26, 2018, at 7:52 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:

> Why not? You did exactly that for Wehrum/Ernst didn't you?
>
> Sent from my iPhone
>
> On Nov 26, 2018, at 7:42 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> > We cannot put in a letter that the final rule will say something in particular. We cannot accept that last edit.
> >
> > ---
> >
> > **From:** Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
> > **Sent:** Wednesday, November 21, 2018 3:21 PM
> > **To:** Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
> > **Cc:** Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
> > **Subject:** RE: Peter Wright

Ryan – thanks for the response. We are definitely making progress.

First of all, just to respond to the Goo/SAB/ERRDA issue, the Goo memo explicitly refers to the **pre**-proposal stage, so we continue to think you are out of compliance with ERRDA. There is case law on this point that I imagine your lawyers are well aware of. I think the additions you made to the letter regarding SAB input and the need to re-propose may render this a moot point. Here is the rest (minus FARM)-

1. **Secret science** – added a very minor suggested tweak, and continue to wonder about the RIA. This rule will have impacts on other rules EPA promulgates, so it isn't entirely fair to say that the RIA isn't needed because this rule is only about EPA administration costs. I'd just ask that you think about that one again. But this letter is coming along and we appreciate it.

2. **Formaldehyde** – nothing new here, just waiting for you to get back to us on the pending request.

3. **SAB** – Re-appointing the 8 is very helpful - thanks. Happy to talk to the person you recommend we talk to as well, especially after you and he reviews what I'm including below.

   We want to talk further about process, but are willing to drop the proposal that you abandon the EPA grants conflict of interests thing (which we hate, so abandoning it is an accommodation on our part). When we talk about process, it isn't just about the EPA grants conflict of interest. It's about how recommendations are made for who to appoint. You have 7 SAB members that you're in the process of re-appointing, and a bunch of pending nominees for these slots. Historically, as nominees were being considered, EPA career staff would look at who was leaving and what needs SAB had in the coming year. So, for example, if all 7 departing people were industry people, one would expect the career staff to recognize that the SAB balance would argue for the appointment of new industry people and they would prepare options for new nominees that would be mostly or all industry people. If two of the 7 departing people were the SAB's only epidemiologists, and career staff knew that in the next year the SAB had a ton of epidemiology to do, they would prepare options for new nominees that would ensure the SAB retained its epidemiology capacity. Career staff would send decision-makers some document(s) that described who was leaving, what capacity was being lost, and recommend options for new appointees that addressed concerns that SAB retain diverse and qualified members and maintain core capacity. This Administration seems to have abandoned that process at least for some advisory committees. We'd like you to return to it. Note that decision-makers can choose not to accept the career staff recommendations, but those decision-makers should at least have the benefit of career staff input.

   Perhaps you could also include in a commitment letter on this that "EPA will follow its past practice of obtaining information and recommendations from EPA's career staff to ensure that new appointees to EPA's scientific advisory committees are independent, well-qualified, free of conflicts of interest, come from diverse technical and professional backgrounds and possess expertise in areas that the agency anticipates to be relevant in planned or anticipated reviews."

4. **PFAS** – nothing new here, just let us know what that language looks like

5. **TA** – thanks – had a brief call with the staff and sent some follow-up questions in writing. I'd really appreciate fast turnaround, and I tried hard to make them easy questions.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 20, 2018 7:25 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I think this email is the latest among us. Now, the draft science policy letter is attached. It received the highest level of review. To follow up on the SAB issues, Tom Brennan is the director of the SAB and has been involved in the last two rounds of selections as director. Prior to that, Tom was the deputy for Zarba. He can answer any questions regarding conflict policy, and I can place him on the phone next week.

From: Jackson, Ryan
Sent: Monday, November 19, 2018 7:20 PM
To: 'Freedhoff, Michal (EPW)' <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

So just a couple of points of initial feedback. The draft science policy letter is being reviewed presently. However, for ERDDA compliance we follow the attached.

On the SAB, eight members 3 year terms expired October 1, 2018 and are eligible for reappointment. Those members are Dr. Ken Ramos (Medicine Toxicology) who chairs the Chemical Assessment Advisory Committee, Dr. Jay Turner (Air Quality Engineer) who chairs the Scientific and Technical Achievement Awards Panel, Dr. Sue Marty (Toxicology), Dr. Susan Felter (Toxicology), Dr. Tara Sabo Atwood (Ecotoxicology), Dr. Kenneth Portier (Statistics), Dr. Thomas Parkerton (Ecotoxicology), Dr. Robert Mace (Hydrology). We plan to reappoint them all. Also, on not following our rules, I really have no idea what you are talking about. Other than receiving grants, the conflicts of interest rules are the same. We have given board members notice now in two application processes.

Finally, page 11 of the opinion says that regardless of a proposed or final rule addressing EPCRA that reporting from animal waste is not required under EPCRA due to the FARM Act. That's why I say it caught our attention. In this case, the FARM Act was not enacted at the time. Administrator Pruitt issued guidance relying on the agricultural exemption from reporting. That is and would be a very broad exemption (which is also discussed in the case). The recent proposal we issued doesn't rely on the agricultural exemption. We believe a rulemaking based on that is too broad. We wanted to simply address animal waste emissions. Any kind of tank spill, other emissions, discharge to water, etc are all reportable under EPCRA. An agricultural exemption for that would be inappropriate and

probably not supportable. Additionally, as I mentioned we are taking down the agricultural exemption guidance anyway as too broad. That is a policy win for you too.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Monday, November 19, 2018 2:32 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Thanks Ryan

We appreciate the constructive engagement, and have a few thoughts to share in response.

First of all, on McIntosh – we are working to resolve the hold and will let you know if we run into problems. We ran that hotline without doing proactive member outreach because we had socialized it in advance with our LAs, and McIntosh is not a high-profile nominee. The hold is from an off-EPW Member we could not have anticipated. Hopefully it will be fine.

On Wright, we know there is a lot of on and off Committee interest in him, as well as widespread environmental NGO opposition to him. Assuming we get to a good resolution with you, we'll need to treat a potential hotline on him differently than we did for McIntosh, and spend more time proactively describing and selling the package. We would be working in good faith towards a voice vote and would actively help resolve problems if they arise.

Now to your points below:

1. **Secret science** – will look forward to reviewing the next draft. Just as a matter of interest and by way of example, unfortunately, lots of workers were exposed to PCBs and asbestos in the 1950s. It isn't exactly an experiment anyone wants to repeat, but is a way to explain the concern we have about older studies.
2. **Formaldehyde –** The problem with a TSCA-RE-only approach is that OW, OAR and/or OLEM can use an IRIS RA to inform future efforts in their programs because IRIS gets you a toxicity evaluation, including a reference dose/concentration. A TSCA RE doesn't get you that (which doesn't mean a TSCA RE is not useful – just saying they are different products that are used for different purposes). Appreciate your receptivity here. As I understand the normal 7-step IRIS process, it would be a 30-day EPA review, then a 60-day intra-agency review, then a 60-90 day public review, then back to NAS, and could thus in theory be completed in just over a year. What we want is for the formaldehyde IRIS assessment to be immediately freed up to follow the IRIS process/timelines that are normal. So a letter saying that, and committing to inform TC if any step takes longer than normal, could be one way to go? We can review text in advance as with other efforts.

3. **SAB** – Happy to look at your list. It isn't just the conflict of interest part of the process that we have issue with, but also the manner in which nominees are selected for qualifications and balance that is not being followed
4. **PFAS** – let us know what that language looks like
5. **TA** – thanks
6. **FARM court case** – I am not the subject matter expert on this, but I think you may be making our point for us. That court decision relied on EPA guidance that was not an accurate description of the FARM Act , which is why we were so unhappy with the way EPA was describing the FARM Act.

Thanks again
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Sunday, November 18, 2018 10:16 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I can understand initial holds because we are EPA. However, the general perspective is that we plan to answer Republican and Democratic letters. We have, and we will and more. If there's something a member would like, it may take time but we will try to comply. In other words, we want to cooperate with them, but I need to have program directors here to do that.

There's a lot of people who work for Ford. Saying that Chad is responsible for all things Ford is the same as the NYT trying to say that Peter is responsible for all things Dow which also was successfully shot down in that article by Region 5 attorneys and staff who worked with Peter while at Dow. Chad was the director of global environmental policy for Ford when this situation was uncovered meaning he was working on Ford issues in Europe and South America. He never worked on this issue. If he had though, it would have been a good thing for Ford and the community because he would have solved it.

On the letter, we can accept most the suggestions.

- We agree to incorporate sending the proposal to the SAB to review. It would be helpful. We don't believe we have an ERDDA problem. EPA complies with ERDDA outlined in the Goo Memo. Unfortunately, I'm at home so I will send in the morning.
- We can incorporate your changes on retroactivity. The text we provided we believed not only said that but provided the exact language in the proposed rule to illustrate that.
- We can incorporate your changes on PII. However, I don't think it's good for us to rely on a study from the 1950s.
- We can incorporate your changes on the top of the second page on providing legal authority, however, I'm not sure how we will conduct an RIA on internal agency procedures. We don't have an obligation to do that, and I'm not sure

how to assess costs within EPA. Additionally, we don't imply. We either say it or not.

- We can incorporate your changes concerning compliance with other laws, although I don't know if we will use those cites and I would have to check the cites. There's one reference that the Clean Air Act requires agencies to do something instead of simply referencing EPA, but I would imagine that's subject to come clean up.

I can send a final draft tomorrow.

On formaldehyde, if you want an IRIS inter-agency process to happen on this which we have no control over, I can agree to that but I need to check with others here. Although Lautenberg allows 3.5 years it doesn't have to take that long. We can conduct a very public risk evaluation for the conditions of use which includes all foreseeable uses in the judgment of the Administrator so yes we can evaluate for all uses. The result of that risk evaluation is regulation. The result of an IRIS review is a nice binder for the shelf which is part of the problem with that program. Additionally, this IRIS study on formaldehyde is something which has been ongoing for about 10 years and has until recently been criticized by the NAS and Congressional appropriations report language for its prior iterations. So yes, let me get back with you as soon as I'm able with probably an acceptance of this one too. We don't believe this is the way to approach a review of formaldehyde.

On the SAB, we are applying the same conflicts of interest rules we have always applied with the exception that if you are receiving a grant from EPA you unable to serve on the SAB. However, the specific offer was that there are 8 SAB members which have completed their first term. We propose reappointing all 8. I can provide their names tomorrow.

On PFAS, I need to check if we can lift the current draft language to send, but if we can we will accept this.

Finally, we can make a couple staff available to talk about off cycle and air conditioning credits for an hour? Let me know when works to do that. Also, I'm slow on getting a very recent federal district court case to you. It's in the 9th Circuit so maybe it doesn't matter on appeal, but the 9th Circuit is a big place. Regardless, we noticed it.

However, THE question I'm going to get when I take all this back is what do we get for doing this especially with word of a hold on Chad especially because we do have a problem with some of these requests. We need to have a telephone discussion of what this does.

Thanks.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Friday, November 16, 2018 11:28 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Ryan

Thanks for this response and for talking through some of the related issues with MF yesterday. Before sharing our response to the Wright-related matters, I wanted to let you know that we are trying to address the hold on Chad McIntosh, which as I mentioned last night, relates to this, and the hold was not lodged by a MI Senator. The fact that we have a hold on McIntosh is illustrative of the challenges EPA faces when asking to confirm any nominees through UC. We will keep you posted. We understand that there is also a blanket hold on ALL nominees for all agencies, but there is nothing we can do on that and assume it will work itself out before sine die. In the meantime, here is our response to the Wright-related matters. As always, we are happy to discuss.

1. **Secret science** Thank you for your effort to memorialize in part the conversations we have had with you, and that TC and AW have had, on this matter. We know your draft letter was a good-faith effort. However, there were some inaccuracies and misunderstandings associated with your draft. Attached is our redline, which you should read on a PC because we tried to explain in comment boxes the reasons for our suggested edits.

2. **Formaldehyde** It does not work for us to move this request into a TSCA RE. That would add 3.5 additional years to an already years-long expensive effort, would not result in a useful product for the non-OCSPP program offices. Moreover, even if you DID consider all conditions of use, you would violate your own (illegal) TSCA rules, and more years-worth of litigation would ensue. What we want is for the IRIS risk assessment for formaldehyde to continue to be processed using the normal IRIS procedures (which I believe were actually written by Nancy Beck when she was at OMB), without additional delay. I do not believe there is middle ground on this request, but if you feel creative, let us know.

3. **Science panels** What we are looking for is a return to your normal procedures (including for how conflicts of interest are assessed) for appointments and reappointments. These procedures are documented in writing at EPA, but EPA is not following them. I understand you mentioned the potential for a compromise involving some specific re-appointments. I would be interested in additional specificity (names, what panel, etc) on that so we can better respond to that offer.

4. **PFAS/CERCLA** We are glad that this is within the scope of your PFAS action plan, and know that it would need to be undertaken by rulemaking and thus could not be completed before the end of the Congress. Could AW make a written commitment to Senator Carper that this will occur and provide a rough timeframe for the NPRM and final agency action? We can edit draft letter language quickly.

5. **FARM** We understand that our staff and yours will engage substantively in coming days/weeks. As part of the conversation RJ and MF had yesterday, she also flagged more systemic concerns about the manner in which the agency engages with us. To that end, I've flagged for both of you, repeatedly, a TA request on cars I submitted about 3 weeks ago that Mandy has told EPA career staff they do not have permission to undertake. I'd like that call to occur early next week. Note that I do not consider this a 'give' on your part – I consider the

provision of TA to be the normal manner in which EPA has historically done its job.

Thanks very much

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:29 AM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Peter Wright

To provide a specific update on this and overall update, we are updating and clarifying text for this answer. I'm anticipating getting some final language or simply thumbs up from our program office shortly. I also will provide an update to the EPCRA 304 site on the cites used.

On the accidental releases terminology, our program offices chose that term to distinguish a one-time, inadvertent release from a "continuous release" that "occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes." 40 CFR 302.8(b). There's different reporting requirements under CERCLA 103(f)(2) and EPCRA 304 for continuous releases versus a temporary or accidental or one time one. That's the distinction they report to me they are attempting to make.

On science transparency rules, you may have noticed that the unified regulatory agenda places it further out because of the anticipated time involved on this. The attached draft is an example of what we could provide to answer some specific and overall questions from the Senate about our timing, thoughts, and any path forward.

The formaldehyde study might have a pathway ahead which would be better than sending the study through intra-agency review, but I hope to have an answer on that soon.

On the science boards, there's a track record of board members leaving or not getting reappointed. However, it's not easy to determine why. Maybe they didn't apply or maybe they did. We have reappointed some and accepted new applicants in other cases and can provide that information. We can also provide the nominating individuals too. Some self nominate, but others come from other sources if that's of interest.

Finally, on CERCLA eligibility, we are in the process of putting together our PFAS strategy based on the 6 townhalls and record which closed 3 weeks ago. This is within that process. But also, this will require rulemaking which is not entirely within our control and for this will take a while. Something to get this request narrowed would be worth talking about, I think.

From: Repko, Mary Frances (EPW) [mailto:mary_frances_repko@epw.senate.gov]
Sent: Friday, October 5, 2018 5:47 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

Ryan,

We are glad you took down the guidance link from the website, and that is helpful. But there are a few more issues with what the agency's website says now that the guidance is down.

The site says:

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?
No. Based on the criteria for EPCRA section 304 release reporting, air emissions from animal waste (including decomposing animal waste) at a farm do not need to be reported under EPCRA.
Furthermore, the statute excludes farms that only use substances in "routine agricultural operations" from reporting releases of hazardous substances under EPCRA section 304. For more information, please see: EPCRA Q&A.

- While you don't have a link to the guidance doc, the website refers to it by citing the specific criteria under 304. It would be better if the website language were more simple:

  No. The EPA has interpreted the "routine agricultural operations" exemption under EPCRA section 304 to not require reporting from farms. For more information, please see: EPCRA Q&A.

- Also, the website's link to EPCRA 304 talks about accidental releases. That's not a word used in the statute, and certainly EPCRA reporting isn't limited to just accidental releases, but rather to any release that isn't federally permitted and that doesn't fall into one of the exemption categories in the statute.

- Finally, you need to update the links to the CFR on the EPCRA 304 page, since what is linked to is now out of date, having been modified by the CFR changes made to reflect the recent vacature order by the DC Circuit of the 2008 rule.

Hope that's clear,
MF

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Wednesday, October 3, 2018 8:03 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re:

Thanks!

Sent from my iPhone

> On Oct 3, 2018, at 6:40 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> We'll have the changes to the FARM Act website posted within the next 30 minutes.
>
>
>
>
>
>
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>

The Honorable Thomas R. Carper
United States Senate
Washington, D.C. 20510

Dear Senator Carper:

This letter serves to highlight steps the Environmental Protection Agency is taking to address issues you have recently raised as further priorities. As always, I appreciate the continued dialogue between my staff and your staff on these issues and look forward to working together to achieve our shared environmental goals.

I fully appreciate that you want to know that the bipartisan work which went into the enactment of the Frank R. Lautenberg Chemical Safety Act for the 21st Century is fully reflected in its implementation by the EPA. I would like to commit to providing additional public information for the review of chemicals under this statute.

EPA receives approximately one thousand new premanufacturing notices (PMNs) from chemical manufacturers each year. These represent new products which manufacturers would like to place on the U.S. markets. EPA commits to ensuring that starting no later than March 29, 2019, all new PMNs, their attachments, including any health and safety studies, any modifications thereto, and all other associated information are placed online into electronic dockets accessible via ChemView within 45 days of their receipt following an evaluation of ~~sensitive~~ confidential business information ~~review~~. . Each month, EPA will also publish in the *Federal Register* a notice of receipt of all PMNs, test marketing exemptions (TMEs) and notices of commencement (NOCs) received in the preceding calendar month. For PMNs, these notices will include at least the case numbers, amendment number and version, date received, manufacturer (if not CBI), use (specific, or generic if CBI), chemical substance (specific and CAS number if not CBI, or the generic name if CBI). For TMEs we will make available the case, submission type, version, date received, manufacturer (if not CBI), use, and chemical substance. For NOCs we will also make available the case, date received, commencement date, if an amendment the type of amendment (amendment to generic name, specific name, technical contact information, etc.), and chemical substance. EPA will also make available, ~~on its website~~via ChemView, each PMN reviewed and subject to a final determination, and will make available all underlying documents supporting EPA's risk determinations, no later than the same time the determination is communicated to the PMN submitter.

Commented [FM(1]: This would give your nominee 3 full months to get this figured out.

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Commented [FM(2]: If this deadline doesn't work, you can suggest another reasonable one.

EPA released a draft framework this year to guide the evaluation of PMNs and requested public comment. EPA will commit to working with the Committee on considering those public comments in our evaluation. EPA will publish its next version of this framework- no later than March 29, 2019, ~~and~~ will hold a public meeting to solicit additional public comment ~~and describe our working approaches~~ within - 60 days of its publication, and then address those comments and publish a new version by June 28, 2019. EPA's framework will specify: (a) the statutory and scientific justifications for the approaches described, (b) the policies and procedures EPA is using/plans to use in its PMN reviews, and (c) its responses to public comments received.

Commented [FM(3]: This gives your nominee 6 full months for this task

I also understand that substantiation of new and re-substantiation of long-standing CBI claims is another concern. EPA commits to providing you with a report describing how the Agency is complying and will comply with Section 14 of the Frank R. Lautenberg Chemical Safety Act for the 21st Century within the next 180 days, with specific information and statistics related to the Agency's implementation of Section 14(g), as well as information on how and when the public will be able to track the status of EPA's reviews of CBI claims and have access to EPA's CBI determinations and associated documents on EPA's website. Additionally, before that time, EPA will describe how the Agency is requiring substantiation or re-substantiation of and reviewing CBI claims on chemicals undergoing risk evaluations, including EPA's plans to ensure both that the public is made aware of the outcome of those reviews and is provided access to any information no longer entitled to CBI protections i) within 6 months of the release of a final determination regarding risk under TSCA section 6(b)(4)(A) for any chemical substance currently undergoing a risk evaluation, and ii) before the release of the scope of the risk evaluation for other chemical substances.

The Agency has been developing proposals concerning the Agricultural Worker Protection Standard (WPS) rule, including changes to the designated representative and minimum age provisions, and application exclusion zone (AEZ) provisions. The Agency has also been developing changes to the Certification of Pesticide Applicators (CPA) rule. Although the subject matter associated with these potential changes has been subject to wide ranging public stakeholder meetings and public comments, EPA will withdraw its OMB submission to propose revisions to these rules and will not make any changes to the designated representative and minimum age provisions. It may consider proposing revisions to the AEZ provision in the WPS rule, but to no other substantive provision in the WPS rule. If such a proposal is issued, it would be subject to a public notice and comment period of no less than 90 days.

It is important that all of the Agency's chemical safety efforts comply with the requirements in the law as well as the regulations implementing the law regarding the Agency's use of the 'best available science.' Consequently, the Agency will, within the next thirty days

Commented [FM(4]: We need a deadline. Suggest another one if this doesn't work

~~promptly, promptly~~ submit the methodology[1] for deciding how to collect and evaluate scientific research related to a chemical's safety that was recently developed by the Office of Chemical Safety and Pollution Prevention (OCSPP) to the National Academy of Sciences (NAS) for peer review and feedback. In addition EPA will use the Frank R. Lautenberg Chemical Safety for the 21st Century Act Section 26(o) mandated advisory committee, a FACA committee, whose purpose is to provide independent advice and expert consultation with respect to the scientific and technical aspects of issues related to TSCA, to provide its independent advice on the methods used by OCSPP to collect and evaluate scientific research in the first ten risk evaluations. I also commit to make public the review, feedback and any recommendations received from both the NAS and the advisory committee within 30 days of their receipt. Finally, following the NAS review, EPA will incorporate feedback and recommendations as appropriate, prior to using the OCSPP methodology for any EPA program that is not currently utilizing it.

Additionally, I will ensure that for each of the first ten existing chemicals being reviewed under the new law, there will be at least 60-days made available for public comment on the draft risk evaluations (with at least 90 days for five of them), with consideration of extensions as appropriate, and an effort will be made to stagger some of their public release in order to maximize the opportunity for review and thorough comments to be prepared and submitted.

EPA proposed a PFAS significant new use rule (SNUR) in 2015. The EPA is considering the public comments received as well as the new statutory requirements added by the Frank R. Lautenberg Chemical Safety for the 21st Century Act as it is moving forward to issue a supplemental proposed SNUR on PFAS.

Finally, I commit to continuing EPA's voluntary Safer Choice program, subject to the availability of adequate appropriations from Congress.

I appreciate your continued interest in the implementation of the Frank R. Lautenberg Chemical Safety Act for the 21st Century. I want to assure you it is a mutual interest, and appreciate the opportunity to work with you on these and other matters of interest.

Sincerely,

Andrew Wheeler

cc: The Honorable John Barrasso
Chairman

[1] [HYPERLINK "https://www.epa.gov/sites/production/files/2018-06/documents/final_application_of_sr_in_tsca_05-31-18.pdf"]

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Commented [FM(5]: So as you know I believe the methodology will lead to litigation risk and adverse outcomes for the agency. You're already marching down that path with REs but can we at least keep it from the rest of the agency's activities? This may need more artful wording – feel free to suggest that.

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Formatted: Space After: 8 pt, Line spacing: Multiple 1.08 li

Commented [FM(6]: You really can't say that if congress gives you money for this program you will spend it???? this is only making me more suspicious that you wish to kill the program and thus more insistent that it be retained.

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Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 11/27/2018 8:58:32 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]; Lyons, Troy [lyons.troy@epa.gov]; Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: RE: Peter Wright
Attachments: 11-27-18letterEPWedits.docx

Here are some edits back to the letter – some placeholders, some formatting, some adjustments to reflect conversations. Working on more substantive feedback on Dunn now.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 1:29 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Attached is a new letter concerning the science rule and SAB.

We have a suggestion on PFAS which you may be more interested in, maybe not.

On the other list, here are items which we can write back to do:

We can place PMNs and associated documents on EPA's website but can't commit to within 15 days because the CBI comb through takes longer than that. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific or generic name if CBI).
- TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
- NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.

We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued.

I can understand the CBI claims and who that's important to in particular. We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29. The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

There may be some more substance to provide on these, but this is about as far as we are able to go on that list. I'm glad to talk about other things on that list, but I'm a best offer kind of a guy without too much effort to low ball and offer. I want to offer what I really think we can do, so that's what this represents.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 11:45 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Thanks! – want to send us what you are proposing back on PFAS and CH2O and SAB as edits to the same letter? On SAB, I think we are fine with the 8 reappointments, the text we sent you about career staff advice, and depending on the call tomorrow we may want to add some document production (forward-looking, a commitment to provide some materials in the future, not before confirmation or a hotline etc), but do not expect to have new requests on policy on the advisory committee front. Happy to work to resolve a final letter text today and then start socializing this to folks.

We are headed in to talk to TC right now but can make time this afternoon if you want to talk through logistics, Dunn, or anything else.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 11:37 AM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

We can accept that edit.

I am strengthening the PFAS answer presently. I need to get some answer concerning formaldehyde so that everyone understands the procedure moving forward, but we can agree to IRIS processing of the chemical.

Finally, I have responses to the list of items concerning Alex, however, we need to have a conversation about it and what happens to all this if Peter and Chad can't get confirmed.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 9:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

The Wehrum letter committed to the future denial of a rulemaking petition before it actually did so, among other commitments made. But in lieu of the first suggested edit, how about this one, which is intended to mirror a commitment to a policy but not specify a rulemaking outcome in a different part of the letter?

Let us know when you want to talk to figure the rest (formaldehyde and PFAS in particular) out. Happy to also share what I'm thinking in terms of process and what we will do to pave the way assuming we get to a good place on the substance.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, November 26, 2018 9:04 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Peter Wright

We didn't propose doing credit for exporting ethanol.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Nov 26, 2018, at 7:52 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:

> Why not? You did exactly that for Wehrum/Ernst didn't you?
>
> Sent from my iPhone
>
> On Nov 26, 2018, at 7:42 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> > We cannot put in a letter that the final rule will say something in particular. We cannot accept that last edit.
> >
> > ---
> >
> > **From:** Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
> > **Sent:** Wednesday, November 21, 2018 3:21 PM
> > **To:** Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
> > **Cc:** Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
> > **Subject:** RE: Peter Wright

Ryan – thanks for the response. We are definitely making progress.

First of all, just to respond to the Goo/SAB/ERRDA issue, the Goo memo explicitly refers to the **pre**-proposal stage, so we continue to think you are out of compliance with ERRDA. There is case law on this point that I imagine your lawyers are well aware of. I think the additions you made to the letter regarding SAB input and the need to re-propose may render this a moot point. Here is the rest (minus FARM)-

1. **Secret science** – added a very minor suggested tweak, and continue to wonder about the RIA. This rule will have impacts on other rules EPA promulgates, so it isn't entirely fair to say that the RIA isn't needed because this rule is only about EPA administration costs. I'd just ask that you think about that one again. But this letter is coming along and we appreciate it.

2. **Formaldehyde** – nothing new here, just waiting for you to get back to us on the pending request.

3. **SAB** – Re-appointing the 8 is very helpful - thanks. Happy to talk to the person you recommend we talk to as well, especially after you and he reviews what I'm including below.

   We want to talk further about process, but are willing to drop the proposal that you abandon the EPA grants conflict of interests thing (which we hate, so abandoning it is an accommodation on our part). When we talk about process, it isn't just about the EPA grants conflict of interest. It's about how recommendations are made for who to appoint. You have 7 SAB members that you're in the process of re-appointing, and a bunch of pending nominees for these slots. Historically, as nominees were being considered, EPA career staff would look at who was leaving and what needs SAB had in the coming year. So, for example, if all 7 departing people were industry people, one would expect the career staff to recognize that the SAB balance would argue for the appointment of new industry people and they would prepare options for new nominees that would be mostly or all industry people. If two of the 7 departing people were the SAB's only epidemiologists, and career staff knew that in the next year the SAB had a ton of epidemiology to do, they would prepare options for new nominees that would ensure the SAB retained its epidemiology capacity. Career staff would send decision-makers some document(s) that described who was leaving, what capacity was being lost, and recommend options for new appointees that addressed concerns that SAB retain diverse and qualified members and maintain core capacity. This Administration seems to have abandoned that process at least for some advisory committees. We'd like you to return to it. Note that decision-makers can choose not to accept the career staff recommendations, but those decision-makers should at least have the benefit of career staff input.

   Perhaps you could also include in a commitment letter on this that "EPA will follow its past practice of obtaining information and recommendations from EPA's career staff to ensure that new appointees to EPA's scientific advisory committees are independent, well-qualified, free of conflicts of interest, come from diverse technical and professional backgrounds and possess expertise in areas that the agency anticipates to be relevant in planned or anticipated reviews."

4. **PFAS** – nothing new here, just let us know what that language looks like

5. **TA** – thanks – had a brief call with the staff and sent some follow-up questions in writing. I'd really appreciate fast turnaround, and I tried hard to make them easy questions.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 20, 2018 7:25 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I think this email is the latest among us. Now, the draft science policy letter is attached. It received the highest level of review. To follow up on the SAB issues, Tom Brennan is the director of the SAB and has been involved in the last two rounds of selections as director. Prior to that, Tom was the deputy for Zarba. He can answer any questions regarding conflict policy, and I can place him on the phone next week.

From: Jackson, Ryan
Sent: Monday, November 19, 2018 7:20 PM
To: 'Freedhoff, Michal (EPW)' <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

So just a couple of points of initial feedback. The draft science policy letter is being reviewed presently. However, for ERDDA compliance we follow the attached.

On the SAB, eight members 3 year terms expired October 1, 2018 and are eligible for reappointment. Those members are Dr. Ken Ramos (Medicine Toxicology) who chairs the Chemical Assessment Advisory Committee, Dr. Jay Turner (Air Quality Engineer) who chairs the Scientific and Technical Achievement Awards Panel, Dr. Sue Marty (Toxicology), Dr. Susan Felter (Toxicology), Dr. Tara Sabo Atwood (Ecotoxicology), Dr. Kenneth Portier (Statistics), Dr. Thomas Parkerton (Ecotoxicology), Dr. Robert Mace (Hydrology). We plan to reappoint them all. Also, on not following our rules, I really have no idea what you are talking about. Other than receiving grants, the conflicts of interest rules are the same. We have given board members notice now in two application processes.

Finally, page 11 of the opinion says that regardless of a proposed or final rule addressing EPCRA that reporting from animal waste is not required under EPCRA due to the FARM Act. That's why I say it caught our attention. In this case, the FARM Act was not enacted at the time. Administrator Pruitt issued guidance relying on the agricultural exemption from reporting. That is and would be a very broad exemption (which is also discussed in the case). The recent proposal we issued doesn't rely on the agricultural exemption. We believe a rulemaking based on that is too broad. We wanted to simply address animal waste emissions. Any kind of tank spill, other emissions, discharge to

water, etc are all reportable under EPCRA. An agricultural exemption for that would be inappropriate and probably not supportable. Additionally, as I mentioned we are taking down the agricultural exemption guidance anyway as too broad. That is a policy win for you too.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Monday, November 19, 2018 2:32 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Thanks Ryan

We appreciate the constructive engagement, and have a few thoughts to share in response.

First of all, on McIntosh – we are working to resolve the hold and will let you know if we run into problems. We ran that hotline without doing proactive member outreach because we had socialized it in advance with our LAs, and McIntosh is not a high-profile nominee. The hold is from an off-EPW Member we could not have anticipated. Hopefully it will be fine.

On Wright, we know there is a lot of on and off Committee interest in him, as well as widespread environmental NGO opposition to him. Assuming we get to a good resolution with you, we'll need to treat a potential hotline on him differently than we did for McIntosh, and spend more time proactively describing and selling the package. We would be working in good faith towards a voice vote and would actively help resolve problems if they arise.

Now to your points below:

1. **Secret science** – will look forward to reviewing the next draft. Just as a matter of interest and by way of example, unfortunately, lots of workers were exposed to PCBs and asbestos in the 1950s. It isn't exactly an experiment anyone wants to repeat, but is a way to explain the concern we have about older studies.
2. **Formaldehyde** – The problem with a TSCA-RE-only approach is that OW, OAR and/or OLEM can use an IRIS RA to inform future efforts in their programs because IRIS gets you a toxicity evaluation, including a reference dose/concentration. A TSCA RE doesn't get you that (which doesn't mean a TSCA RE is not useful – just saying they are different products that are used for different purposes). Appreciate your receptivity here. As I understand the normal 7-step IRIS process, it would be a 30-day EPA review, then a 60-day intra-agency review, then a 60-90 day public review, then back to NAS, and could thus in theory be completed in just over a year. What we want is for the formaldehyde IRIS assessment to be immediately freed up to follow the IRIS process/timelines that are normal. So a letter saying that, and committing to inform TC if any step takes longer than normal, could be one way to go? We can review text in advance as with other efforts.

3. **SAB** – Happy to look at your list. It isn't just the conflict of interest part of the process that we have issue with, but also the manner in which nominees are selected for qualifications and balance that is not being followed
4. **PFAS** – let us know what that language looks like
5. **TA** – thanks
6. **FARM court case** – I am not the subject matter expert on this, but I think you may be making our point for us. That court decision relied on EPA guidance that was not an accurate description of the FARM Act , which is why we were so unhappy with the way EPA was describing the FARM Act.

Thanks again
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Sunday, November 18, 2018 10:16 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I can understand initial holds because we are EPA. However, the general perspective is that we plan to answer Republican and Democratic letters. We have, and we will and more. If there's something a member would like, it may take time but we will try to comply. In other words, we want to cooperate with them, but I need to have program directors here to do that.

There's a lot of people who work for Ford. Saying that Chad is responsible for all things Ford is the same as the NYT trying to say that Peter is responsible for all things Dow which also was successfully shot down in that article by Region 5 attorneys and staff who worked with Peter while at Dow. Chad was the director of global environmental policy for Ford when this situation was uncovered meaning he was working on Ford issues in Europe and South America. He never worked on this issue. If he had though, it would have been a good thing for Ford and the community because he would have solved it.

On the letter, we can accept most the suggestions.

- We agree to incorporate sending the proposal to the SAB to review. It would be helpful. We don't believe we have an ERDDA problem. EPA complies with ERDDA outlined in the Goo Memo. Unfortunately, I'm at home so I will send in the morning.
- We can incorporate your changes on retroactivity. The text we provided we believed not only said that but provided the exact language in the proposed rule to illustrate that.
- We can incorporate your changes on PII. However, I don't think it's good for us to rely on a study from the 1950s.
- We can incorporate your changes on the top of the second page on providing legal authority, however, I'm not sure how we will conduct an RIA on internal agency procedures. We don't have an obligation to do that, and I'm not sure

how to assess costs within EPA. Additionally, we don't imply. We either say it or not.

- We can incorporate your changes concerning compliance with other laws, although I don't know if we will use those cites and I would have to check the cites. There's one reference that the Clean Air Act requires agencies to do something instead of simply referencing EPA, but I would imagine that's subject to come clean up.

I can send a final draft tomorrow.

On formaldehyde, if you want an IRIS inter-agency process to happen on this which we have no control over, I can agree to that but I need to check with others here. Although Lautenberg allows 3.5 years it doesn't have to take that long. We can conduct a very public risk evaluation for the conditions of use which includes all foreseeable uses in the judgment of the Administrator so yes we can evaluate for all uses. The result of that risk evaluation is regulation. The result of an IRIS review is a nice binder for the shelf which is part of the problem with that program. Additionally, this IRIS study on formaldehyde is something which has been ongoing for about 10 years and has until recently been criticized by the NAS and Congressional appropriations report language for its prior iterations. So yes, let me get back with you as soon as I'm able with probably an acceptance of this one too. We don't believe this is the way to approach a review of formaldehyde.

On the SAB, we are applying the same conflicts of interest rules we have always applied with the exception that if you are receiving a grant from EPA you unable to serve on the SAB. However, the specific offer was that there are 8 SAB members which have completed their first term. We propose reappointing all 8. I can provide their names tomorrow.

On PFAS, I need to check if we can lift the current draft language to send, but if we can we will accept this.

Finally, we can make a couple staff available to talk about off cycle and air conditioning credits for an hour? Let me know when works to do that. Also, I'm slow on getting a very recent federal district court case to you. It's in the 9th Circuit so maybe it doesn't matter on appeal, but the 9th Circuit is a big place. Regardless, we noticed it.

However, THE question I'm going to get when I take all this back is what do we get for doing this especially with word of a hold on Chad especially because we do have a problem with some of these requests. We need to have a telephone discussion of what this does.

Thanks.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Friday, November 16, 2018 11:28 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Ryan

Thanks for this response and for talking through some of the related issues with MF yesterday. Before sharing our response to the Wright-related matters, I wanted to let you know that we are trying to address the hold on Chad McIntosh, which as I mentioned last night, relates to this, and the hold was not lodged by a MI Senator. The fact that we have a hold on McIntosh is illustrative of the challenges EPA faces when asking to confirm any nominees through UC. We will keep you posted. We understand that there is also a blanket hold on ALL nominees for all agencies, but there is nothing we can do on that and assume it will work itself out before sine die. In the meantime, here is our response to the Wright-related matters. As always, we are happy to discuss.

1. **Secret science** Thank you for your effort to memorialize in part the conversations we have had with you, and that TC and AW have had, on this matter. We know your draft letter was a good-faith effort. However, there were some inaccuracies and misunderstandings associated with your draft. Attached is our redline, which you should read on a PC because we tried to explain in comment boxes the reasons for our suggested edits.

2. **Formaldehyde** It does not work for us to move this request into a TSCA RE. That would add 3.5 additional years to an already years-long expensive effort, would not result in a useful product for the non-OCSPP program offices. Moreover, even if you DID consider all conditions of use, you would violate your own (illegal) TSCA rules, and more years-worth of litigation would ensue. What we want is for the IRIS risk assessment for formaldehyde to continue to be processed using the normal IRIS procedures (which I believe were actually written by Nancy Beck when she was at OMB), without additional delay. I do not believe there is middle ground on this request, but if you feel creative, let us know.

3. **Science panels** What we are looking for is a return to your normal procedures (including for how conflicts of interest are assessed) for appointments and reappointments. These procedures are documented in writing at EPA, but EPA is not following them. I understand you mentioned the potential for a compromise involving some specific re-appointments. I would be interested in additional specificity (names, what panel, etc) on that so we can better respond to that offer.

4. **PFAS/CERCLA** We are glad that this is within the scope of your PFAS action plan, and know that it would need to be undertaken by rulemaking and thus could not be completed before the end of the Congress. Could AW make a written commitment to Senator Carper that this will occur and provide a rough timeframe for the NPRM and final agency action? We can edit draft letter language quickly.

5. **FARM** We understand that our staff and yours will engage substantively in coming days/weeks. As part of the conversation RJ and MF had yesterday, she also flagged more systemic concerns about the manner in which the agency engages with us. To that end, I've flagged for both of you, repeatedly, a TA request on cars I submitted about 3 weeks ago that Mandy has told EPA career staff they do not have permission to undertake. I'd like that call to occur early next week. Note that I do not consider this a 'give' on your part – I consider the

provision of TA to be the normal manner in which EPA has historically done its job.

Thanks very much

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:29 AM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Peter Wright

To provide a specific update on this and overall update, we are updating and clarifying text for this answer. I'm anticipating getting some final language or simply thumbs up from our program office shortly. I also will provide an update to the EPCRA 304 site on the cites used.

On the accidental releases terminology, our program offices chose that term to distinguish a one-time, inadvertent release from a "continuous release" that "occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes." 40 CFR 302.8(b). There's different reporting requirements under CERCLA 103(f)(2) and EPCRA 304 for continuous releases versus a temporary or accidental or one time one. That's the distinction they report to me they are attempting to make.

On science transparency rules, you may have noticed that the unified regulatory agenda places it further out because of the anticipated time involved on this. The attached draft is an example of what we could provide to answer some specific and overall questions from the Senate about our timing, thoughts, and any path forward.

The formaldehyde study might have a pathway ahead which would be better than sending the study through intra-agency review, but I hope to have an answer on that soon.

On the science boards, there's a track record of board members leaving or not getting reappointed. However, it's not easy to determine why. Maybe they didn't apply or maybe they did. We have reappointed some and accepted new applicants in other cases and can provide that information. We can also provide the nominating individuals too. Some self nominate, but others come from other sources if that's of interest.

Finally, on CERCLA eligibility, we are in the process of putting together our PFAS strategy based on the 6 townhalls and record which closed 3 weeks ago. This is within that process. But also, this will require rulemaking which is not entirely within our control and for this will take a while. Something to get this request narrowed would be worth talking about, I think.

From: Repko, Mary Frances (EPW) [mailto:mary_frances_repko@epw.senate.gov]
Sent: Friday, October 5, 2018 5:47 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

Ryan,

We are glad you took down the guidance link from the website, and that is helpful. But there are a few more issues with what the agency's website says now that the guidance is down.

The site says:

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?
No. Based on the criteria for EPCRA section 304 release reporting, air emissions from animal waste (including decomposing animal waste) at a farm do not need to be reported under EPCRA.
Furthermore, the statute excludes farms that only use substances in "routine agricultural operations" from reporting releases of hazardous substances under EPCRA section 304. For more information, please see: EPCRA Q&A.

- While you don't have a link to the guidance doc, the website refers to it by citing the specific criteria under 304. It would be better if the website language were more simple:

  No. The EPA has interpreted the "routine agricultural operations" exemption under EPCRA section 304 to not require reporting from farms. For more information, please see: EPCRA Q&A.

- Also, the website's link to EPCRA 304 talks about accidental releases. That's not a word used in the statute, and certainly EPCRA reporting isn't limited to just accidental releases, but rather to any release that isn't federally permitted and that doesn't fall into one of the exemption categories in the statute.

- Finally, you need to update the links to the CFR on the EPCRA 304 page, since what is linked to is now out of date, having been modified by the CFR changes made to reflect the recent vacature order by the DC Circuit of the 2008 rule.

Hope that's clear,
MF

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Wednesday, October 3, 2018 8:03 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re:

Thanks!

Sent from my iPhone

> On Oct 3, 2018, at 6:40 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> We'll have the changes to the FARM Act website posted within the next 30 minutes.
>
>
>
>
>
>
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>

Dear Senator Carper,

I appreciate your interest in the U.S. Environmental Protection Agency (EPA) proposed rule, "Strengthening Transparency in Regulatory Science," process for selecting candidates to serve on EPA's Science Advisory Board, and the opportunity to respond to some of your additional concerns.

Strengthening Transparency in Regulatory Science

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The intent of the proposed rule is to establish procedures for strengthening the transparency and reproducibility of scientific information underlying significant EPA actions. Specifically, the proposal seeks to ensure that the data and models underlying EPA regulatory science are "publicly available in a manner sufficient for validation and analysis."[1] The proposal was designed to enhance existing policies on scientific transparency and public access to data in a way that builds public trust and understanding of EPA's regulatory decision making. As I am sure you will agree, under the principles of community right to know, it is important for the EPA to make public the scientific information we use in our rulemaking process.

Since the rule was proposed in April 2018, EPA has received a variety of public feedback that require careful consideration. EPA held a public hearing on July 17, 2018 in Washington, D.C. that hosted nearly 100 speakers, including members of Congress. During the 108-day public comment period, EPA also received over 597,000 written comments, of which over 9,200 are individual, unique comments.[2] EPA, with contractor assistance, is currently in the process of reviewing the unique comments and preparing a summary of those comments to inform the agency's internal regulatory development workgroup's next steps which will include review of the proposal by EPA's Science Advisory Board.

While EPA has received a host of questions on the proposal that are still under thoughtful consideration, I want to address some of the more prevalent questions related to the applicability of the rule and protections for personal information. In the first instance, any reading of the proposed rule should not be understood to apply to scientific studies that pre-date the proposal. Although EPA has received many public comments, consistent with the proposal, we believe it is the best policy to not apply the rule retroactively to studies and science which pre-date the rule. In regard to questions about protection of personal information, nothing in the text of the proposal would compel disclosure of confidential or private information. In fact, the proposed rule reinforces existing legal and ethical protections of such information. The proposal states, "[w]here the Agency is making data or models publicly available, it shall do so in a fashion that is consistent with law, protects privacy, confidentiality, confidential business information, and is sensitive to national and homeland security."[3] I commit to a policy that ensures that in instances in which EPA has determined that disclosing a study's underlying data may implicitly or explicitly identify such information, it will not publicly disclose the data, but will nevertheless fully consider the study during the rule development process.

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[1] 83 Fed. Reg. 18871, April 30, 2018.

[2] [HYPERLINK "https://www.regulations.gov/document?D=EPA-HQ-OA-2018-0259-0001"]

[3] 83 Fed. Reg. 18873, April 30, 2018

Given the scope and volume of public comments, the Agency's review process cannot be rushed, and EPA has a significant amount of work ahead to fully consider and develop any final action. As with all rulemakings issued by EPA, any final action must be based on our statutory authority and a robust, sound record. Where EPA determines further analyses, information or legal authority is needed to support a particular final action, the Agency will issue a supplemental notice seeking further public comment. Based on our preliminary analysis of the comments reviewed, I expect that EPA will need to issue one or more supplemental notices and solicitations of comment. This future process will likely include a specific legal analysis of the statutory provisions that provide EPA with the authority to take action in this area as well as an analysis of relevant case law that EPA relied upon to support the rule. The supplemental notice will also address comments filed in response to the original proposal that question whether the proposal is consistent with all provisions of all statutes that EPA administers.

I commit that as the EPA moves forward with its consideration of this proposal, the Agency will ensure that it has complied with all applicable laws, including the Administrative Procedure Act and all of EPA's organic statutes, as well as executive orders, that govern the rule-making process. Further, I commit that the Agency's implementation and use of this rule will comply with the Administrative Procedure Act and Clean Air Act[4], which require agencies to consider[5] and respond[6] to all significant information presented to them pursuant to a rulemaking, as well as statutes that mandate the use of the best available science, such as the Toxic Substances Control Act[7] and Safe Drinking Water Act[8].

EPA's Science Advisory Board

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~~Finally,~~ EPA regularly ~~has~~ recruit~~sed~~ and receiv~~ed~~ nominations for candidates to serve on its Federal Advisory Committee Act panels and EPA's Science Advisory Board. During this Administration, EPA has placed notices in the Federal Register and on its website for nominations and has received hundreds of applications. EPA will continue follow its past practice of obtaining information and recommendations from EPA's career staff to ensure that new appointees to EPA's scientific advisory committees are independent, well-qualified, free of conflicts of interest, come from diverse technical and professional backgrounds and possess expertise in areas that the agency anticipates to be relevant in planned or anticipated review~~s~~, ~~and to ensure~~ that the composition of its advisory committees is also in compliance with statutory mandates. The names of a~~A~~ll candidates will be posted for a public comment period prior to their selection ~~on~~ for any of EPA's panels.

Commented [CR(1]: I added this line to cover situations where the statute is more specific, like | HYPERLINK "https://yosemite.epa.gov/sab/sabproduct.nsf/db6b9452a00aa3bd85257242006901de/3cda169d2187c6c885257f85006d3af1!OpenDocument"] which spells out specific composition.

With respect to EPA's Science Advisory Board, eight of its members' 3-year terms expired October 1, 2018 and are eligible for reappointment. It is my intention to re-appoint all eight for a second 3-year term. Additionally, PLACEHOLDER FOR DOCUMENT REQUEST

Commented [FM(2]: In past correspondence, TC has asked for and received EPA documents related to the EPA career staff review of advisory committee nominees. More recently, for example, the 11/15/18 letter from TC and about a dozen other Senators requested these materials both retrospectively, with quarterly updates going forward. Perhaps a forward- looking commitment to fully respond to this letter by 12/17/18 [later if needed, this was just the date in the letter] with the requested quarterly updates could be added?

PFAS

Formaldehyde

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[4] 42 U.S.C. §4607(d)(3) and (6)
[5] 5 U.S.C. §553
[6] *Home Box Office, Inc. v. F.C.C.*, 567 F.2d 9, 35–36 (D.C. Cir. 1977)
[7] 15 U.S.C. 2625(h)
[8] 42 U.S.C. § 300g-1(b)(3)(A)

I appreciate your interest in this proposed rule and service on EPA's FACA and science panels, and commit to working with your office to provide as much information and briefings as we can provide, and to keep your office fully updated concerning both.

Message

From: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
Sent: 11/28/2018 1:43:00 AM
To: Lyons, Troy [lyons.troy@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
Subject: Re: re - Dunn

Note for the three of you that I have a 9:30 hearing that should end for an 11 am all Senators Yemen briefing.

Mary Frances Repko
Minority Staff Director
U.S. Senate Committee on Environment and Public Works

On Nov 27, 2018, at 8:32 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Yes I can
>
> Sent from my iPhone
>
> On Nov 27, 2018, at 6:12 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> > That would be good. Let's do that. Aaron will clear some stuff. Troy, can you be around too?
> >
> > **From:** Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
> > **Sent:** Tuesday, November 27, 2018 6:11 PM
> > **To:** Jackson, Ryan <jackson.ryan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
> > **Cc:** Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
> > **Subject:** RE: re - Dunn
> >
> > I am at my desk now if you want to call. 2282423. Or tomorrow, maybe right after our SAB call?
> >
> > Michal Ilana Freedhoff, Ph.D.
> > Director of Oversight
> > Committee on Environment and Public Works Democratic Staff
> >
> > **From:** Jackson, Ryan <jackson.ryan@epa.gov>
> > **Sent:** Tuesday, November 27, 2018 6:10 PM
> > **To:** Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
> > **Cc:** Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
> > **Subject:** RE: re - Dunn
> >
> > When would be a good time to go through this?

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 5:09 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: re - Dunn

OK here is a bit more by way of substantive response

I would like to discuss these additional yellow highlighted items from the original Dunn list.

I tried to put your response in red text below the item so we could keep track of where we are on all of them. I have added to this in CAPS.

Green highlight means I think we are resolved and just need to figure out words for a letter – thank you.

Also though I have not highlighted the ethylene oxide item, I did receive another note about that from Senator Duckworth's staff today and just flag it for you again without specificity.

1. **PMN transparency measures** — EPA has reduced the information that is available to the public as it evaluates PMNs. We would like this remedied by 1/15/19, and would like the following materials be made available:
   - Each PMN and its attachments, all amendments, correspondence with EPA, and other supporting documentation in an electronic docket within 15 days of receipt of the PMN; and publication of the FR notice of receipt required under 5(d) within 30 days of PMN receipt.
   - EPA's underlying risk assessment documents that support each "not likely to present an unreasonable risk" determination EPA makes on PMNs, at the same time that the determination is communicated to the PMN submitter and posted on EPA's website.
   - EPA career staff's "interim recommendation" on each PMN substance undergoing review.

We can place PMNs and associated documents ~~on EPA's website~~ IN ELECTRONIC DOCKETS ON REGULATIONS.GOV [YOUR REGULATIONS REQUIRE THIS] ~~but can't commit to~~ within 15 days ~~because the CBI comb through takes longer than that~~ [WHY IS EPA DOING THE CBI COMB WHEN THE APPLICANTS ARE SUPPOSED TO PROVIDE YOU WITH PUBLICLY RELEASABLE VERSIONS OF THE DOCUMENTS THEY SEND YOU? WHY NOT JUST ENFORCE YOUR OWN REQUIREMENTS?]. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly [NOTE THAT YOU ARE CURRENTLY 3-6 MONTHS BEHND IN POSTING ANYTHING. GIVEN THE 90 DAY DEADLINE FOR PMN REVIEW, THE DEADLINES HIGHLIGHTED ABOVE FOR PUBLIC POSTING REALLY NEED TO BE THE DEADLINES]:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific AND CAS NUMBER IF NOT CBI, or generic name if CBI).

? TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
? NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.
? EPA'S UNDERLYING RISK ASSESSMENT DOCUMENTS THAT SUPPORT EACH "NOT LIKELY TO PRESENT AN UNREASONABLE RISK" DETERMINATION EPA MAKES ON PMNS, AT THE SAME TIME THAT THE DETERMINATION IS COMMUNICATED TO THE PMN SUBMITTER AND POSTED ON EPA'S WEBSITE.
? EPA CAREER STAFF'S "INTERIM RECOMMENDATION" ON EACH PMN SUBSTANCE UNDERGOING REVIEW.

2. **Section 5 framework:** EPA released a framework on how it would implement section 5 about a year ago, and held a public meeting and received written comments on it. While EPA appears to have subsequently made changes to the manner in which it is evaluating new chemicals, it has never modified or re-published this framework document to reflect those changes. We would like EPA to commit to publicly release a revised section 5 framework document by ~~1/15/19~~ 1/31/19 [THIS GIVES YOU 60 DAYS PER BELOW] that includes EPA's legal justifications for it, and take additional public comments on it.

From RJ:
We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued [UNDERSTOOD, BUT IN THE SAME WAY A PROPOSED RULE THEN INCORPORATES COMMENTS AND IS RELEASED IN FINAL FORM, THAT NEEDS TO HAPPEN ON THEFRAMEWORK ALSO. IT ISN'T ENOUGH TO BRIEF THE COMMITTEE, THOUGH THAT IS ALWAYS APPRECIATED. CAN YOU COMMIT TO PUBLISH THE NEXT VERSION OF THE FRAMEWORK BY 1/31/19, INCLUDE LEGAL JUSTIFICATION FOR WHATEVER IT SAYS, HOLD A PUBLIC MEETING AND TAKE ADDITIONAL PUBLIC COMMENTS, AND BRIEF THE COMMITTEE. I ALSO ASSUME THAT THE NEW DOCUMENT WILL INCLUDE THE 'NOT LIKELY' INFORMATION YOU REFERENCED BUT THAT WON'T BE ALL IT INCLUDES. I DIDN'T EDIT THE WORDS ABOVE OTHER THAN THE DATE BECAUSE IT WASN'T 100% CLEAR TO ME THAT WE WERE TALKING ABOUT THE SAME DOCUMENT.

3. **CBI substantiation**– Section 14(c)(3) of new TSCA requires submitters of information to substantiate CBI claims. In addition, recognizing EPA's responsibility to weed out unwarranted CBI claims, section 14(g)(1)(A) requires EPA to review and either approve or deny CBI claims within 90 days of receipt. Under section 14(g)(1)(C), this review process must address all CBI claims for chemical identity and a representative subset of other claims comprising at least 25 percent of the total submitted. It is hard to see whether all of those things are happening, because so much of the PMN submittals and EPA's review thereof are redacted. Could EPA commit to issuing a report by July 1, 2019 that describes its efforts to comply with the CBI requirements in sections 14(c)(3) and 14(g)(1), and seek public comment and recommendations for improved management and review of CBI claims?

From RJ: We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements
WE DO WANT A REPORT ON THIS AS DESCRIBED ABOVE, BUT I NOTE THAT SECTION 26(j)(1) REQUIRES THAT EACH CBI CLAIM DETERMINATION HAS TO BE MADE PUBLIC, AND EPA HAS YET TO MAKE A SINGLE ONE PUBLIC. SAME WITH UNIQUE IDENTIFIERS. A REPORT ON WHAT YOU ARE DOING AND WHEN YOU WILL IMPLEMENT THE LAW IS THE MOST MINIMAL THING WE COULD ASK FOR IN THIS SPACE. AT THE VERY LEAST, THE REPORT SHOULD BE DETAILING THE NUMBER OF CLAIMS MADE, NUMBER OF DECISIONS MADE, INCLUDE COMMITMENTS FOR HOW AND WHEN THESE DECISIONS WILL BE PUBLICLY DOCUMENTED ON SOME TRACKING DATABASE, AND SO FORTH.

4. **CBI re-substantiation -** new TSCA says that "[t]he Administrator may require any person that has claimed protection for information from disclosure under this section, whether before, on, or after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to reassert and substantiate or re-substantiate the claim in accordance with this section— (A) after the chemical substance is designated as a high-priority substance under section 6(b) …" 15 USC 2613(f)(1). We would like EPA to commit to undertake re-substantiation of CBI claims for chemical substances undergoing REs, and make public any information for which the CBI claim(s) are no longer valid before the draft RE is published for comment.

From RJ: and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29.
THIS SHOULD INCLUDE ALL CHEMICALS THAT ARE UNDERGOING RES, INCLUDING THE FIRST TEN. PERHAPS FOR THE FIRST TEN, IT COULD BE SOONER THAN 45 DAYS BEFORE THE END OF THE COMMENT PERIOD ON THE RE, AND FOR FUTURE CHEMICALS UNDERGOING RES, IT COULD BE BEFORE THE SCOPE OF THE RE IS PUBLISHED (SO WOULD GIVE 6 MONTHS BTW PRIORTIZING AND PUBLISHING THE SCOPE)? AS PART OF RESUBSTANTIATION, EPA SHOULD BE MAKING THE DETERMINATIONS PUBLIC AS WELL AS ANY INFORMATION THAT NO LONGER QUALIFIES FOR CBI PROTECTION.

5. **State CBI sharing** – states have told me there are deviations from the law in how EPA is sharing CBI with them. I've requested more information and when I get it I will send it your way. This is a placeholder for now.

6. **Worker protections/SNURs** – For 16 recent PMNs, EPA identified the potential for unreasonable health risks to workers but, as a matter of policy, decided not to require workplace protections under section 5(e) orders or SNURs, and deemed the chemicals to be "not likely" to pose an unreasonable risk. This is a departure from the approach EPA has followed under both old and new TSCA. We would like EPA to resume issuing section 5(e) orders and SNURs protecting workers from such risks when they are identified in the Agency's reviews of new chemicals.

7. **Systematic review** – OCSPP has developed its own systematic review document even though ORD's has been largely blessed by the NAS. We'd like the OCSPP version to be withdrawn and/or not used until it is reviewed by NAS, and NAS feedback incorporated.

8. **PFAS SNUR** – EPA proposed its PFAS SNUR in 2015, and EPA has repeatedly said it is revising it to reflect new TSCA but planned to finalize it. We'd like a commitment that it be finalized by a date certain and assurance that its scope has not changed from what was proposed. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the language you're currently using In that document and seeing if that language can be sent to TC in a letter.

From RJ: The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

9. **PFAS information -** EPA has acknowledged that it lacks information about many PFAS chemicals. We would like EPA to commit to use EPA's authority under TSCA Section 8(a)(2) to require PFAS manufacturers and processors to submit information concerning the production, use, and impacts of PFAS chemicals. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the language you're currently using In that document and seeing if that language can be sent to TC in a letter. If there are other ways to get this information (section 4 orders, for example), we are definitely open.

10. **MC ban** – We would like the ban on all consumer and most/all commercial uses to be finalized. I understand your challenge is OMB. Perhaps one way to deal with this would be to figure out how AW could communicate the OMB problem more clearly - this will obviously be raised both at the Dunn hearing and at AW's confirmation hearing.

11. **Comment period and peer review of risk evaluations:** We would like a 120 day comment period for the rest of the first 10 REs. They're the first REs to be conducted under the new law and many of them will be released for public comment simultaneously, which will be difficult for commenters to handle. We would also like to ensure that CSAC is properly set up for a separate peer review of each of the REs, and can suggest some measures that could help with that. These include augmenting the CSAC with chemical-specific expertise if necessary (and allow the public to suggest new chemical-specific reviewers as it has in other similar situations), ensuring that CSAC members reviewing particular REs do not have conflicts of interest associated with the particular chemical, providing separate CSAC peer review documents for each RE so that the public can understand the nature of the CSAC input, and respond in each final RE to public comments and peer reviewer input. If needed, EPA has the additional 6 month extension TSCA provided in which to take these measures, which I know is non-ideal, but these are the first ten and probably need more attention.

12. **Agricultural Worker Protection Standard (WPS) rule and the Certification of Pesticide Applicators (CPA) rule** – withdraw the proposed modifications to these rules (we believe you already offered to do this and that's basically what the Senate did in PRIA)

From RJ: The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

13. **PCB rule** – The Obama Administration sent a proposed rule to OMB that was never published. As I understand it, it basically makes schools remove ancient PCB light fixtures so the PCBs don't rain down on kids' heads anymore. These fixtures are well beyond their useful lifetime. We'd like that rule to be revived and proposed/finalized.

14. **CDR:** EPA received CDR data from industry some time ago and continues to say it will soon publish the CDR. We would like EPA to commit to publish the CDR by 1/15/19, and additionally commit not to revise the CDR rule for the rest of this Administration.

15. **Ethylene oxide** – no specific request here, but I'm aware of your ongoing dialogue with the Duckworth (and other) offices on this so I'm flagging it as a potential issue of interest.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 1:29 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Attached is a new letter concerning the science rule and SAB.

We have a suggestion on PFAS which you may be more interested in, maybe not.

On the other list, here are items which we can write back to do:

We can place PMNs and associated documents on EPA's website but can't commit to within 15 days because the CBI comb through takes longer than that. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly:

- ? PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific or generic name if CBI).
- ? TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
- ? NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.

We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or

briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued.

I can understand the CBI claims and who that's important to in particular. We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29. The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

There may be some more substance to provide on these, but this is about as far as we are able to go on that list. I'm glad to talk about other things on that list, but I'm a best offer kind of a guy without too much effort to low ball and offer. I want to offer what I really think we can do, so that's what this represents.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 11:45 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Thanks! -- want to send us what you are proposing back on PFAS and CH2O and SAB as edits to the same letter? On SAB, I think we are fine with the 8 reappointments, the text we sent you about career staff advice, and depending on the call tomorrow we may want to add some document production (forward-looking, a commitment to provide some materials In the future, not before confirmation or a hotline etc), but do not expect to have new requests on policy on the advisory committee front. Happy to work to resolve a final letter text today and then start socializing this to folks.

We are headed in to talk to TC right now but can make time this afternoon if you want to talk through logistics, Dunn, or anything else.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 11:37 AM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

We can accept that edit.

I am strengthening the PFAS answer presently. I need to get some answer concerning formaldehyde so that everyone understands the procedure moving forward, but we can agree to IRIS processing of the chemical.

Finally, I have responses to the list of items concerning Alex, however, we need to have a conversation about it and what happens to all this if Peter and Chad can't get confirmed.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 9:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

The Wehrum letter committed to the future denial of a rulemaking petition before it actually did so, among other commitments made. But in lieu of the first suggested edit, how about this one, which is intended to mirror a commitment to a policy but not specify a rulemaking outcome in a different part of the letter?

Let us know when you want to talk to figure the rest (formaldehyde and PFAS in particular) out. Happy to also share what I'm thinking in terms of process and what we will do to pave the way assuming we get to a good place on the substance.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, November 26, 2018 9:04 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Peter Wright

We didn't propose doing credit for exporting ethanol.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Nov 26, 2018, at 7:52 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:

> Why not? You did exactly that for Wehrum/Ernst didn't you?
>
> Sent from my iPhone
>
> On Nov 26, 2018, at 7:42 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> We cannot put in a letter that the final rule will say something in particular. We cannot accept that last edit.
>>
>> ---
>>
>> **From:** Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
>> **Sent:** Wednesday, November 21, 2018 3:21 PM
>> **To:** Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
>> **Cc:** Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
>> **Subject:** RE: Peter Wright
>>
>> Ryan – thanks for the response. We are definitely making progress.
>>
>> First of all, just to respond to the Goo/SAB/ERRDA issue, the Goo memo explicitly refers to the **pre**-proposal stage, so we continue to think you are out of compliance with ERRDA. There is case law on this point that I imagine your lawyers are well aware of. I think the additions you made to the letter regarding SAB input and the need to re-propose may render this a moot point. Here is the rest (minus FARM)-
>>
>> 1. **Secret science** – added a very minor suggested tweak, and continue to wonder about the RIA. This rule will have impacts on other rules EPA promulgates, so it isn't entirely fair to say that the RIA isn't needed because this rule is only about EPA administration costs. I'd just ask that you think about that one again. But this letter is coming along and we appreciate it.
>>
>> 2. **Formaldehyde** – nothing new here, just waiting for you to get back to us on the pending request.
>>
>> 3. **SAB** – Re-appointing the 8 is very helpful - thanks. Happy to talk to the person you

recommend we talk to as well, especially after you and he reviews what I'm including below.

We want to talk further about process, but are willing to drop the proposal that you abandon the EPA grants conflict of interests thing (which we hate, so abandoning it is an accommodation on our part). When we talk about process, it isn't just about the EPA grants conflict of interest. It's about how recommendations are made for who to appoint. You have 7 SAB members that you're in the process of re-appointing, and a bunch of pending nominees for these slots. Historically, as nominees were being considered, EPA career staff would look at who was leaving and what needs SAB had in the coming year. So, for example, if all 7 departing people were industry people, one would expect the career staff to recognize that the SAB balance would argue for the appointment of new industry people and they would prepare options for new nominees that would be mostly or all industry people. If two of the 7 departing people were the SAB's only epidemiologists, and career staff knew that in the next year the SAB had a ton of epidemiology to do, they would prepare options for new nominees that would ensure the SAB retained its epidemiology capacity. Career staff would send decision-makers some document(s) that described who was leaving, what capacity was being lost, and recommend options for new appointees that addressed concerns that SAB retain diverse and qualified members and maintain core capacity. This Administration seems to have abandoned that process at least for some advisory committees. We'd like you to return to it. Note that decision-makers can choose not to accept the career staff recommendations, but those decision-makers should at least have the benefit of career staff input.

Perhaps you could also include in a commitment letter on this that "EPA will follow its past practice of obtaining information and recommendations from EPA's career staff to ensure that new appointees to EPA's scientific advisory committees are independent, well-qualified, free of conflicts of interest, come from diverse technical and professional backgrounds and possess expertise in areas that

the agency anticipates to be relevant in planned or anticipated reviews."

4. **PFAS** – nothing new here, just let us know what that language looks like

5. **TA** – thanks – had a brief call with the staff and sent some follow-up questions in writing. I'd really appreciate fast turnaround, and I tried hard to make them easy questions.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works
Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 20, 2018 7:25 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I think this email is the latest among us. Now, the draft science policy letter is attached. It received the highest level of review. To follow up on the SAB issues, Tom Brennan is the director of the SAB and has been involved in the last two rounds of selections as director. Prior to that, Tom was the deputy for Zarba. He can answer any questions regarding conflict policy, and I can place him on the phone next week.

From: Jackson, Ryan
Sent: Monday, November 19, 2018 7:20 PM
To: 'Freedhoff, Michal (EPW)' <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

So just a couple of points of initial feedback. The draft science policy letter is being reviewed presently. However, for ERDDA compliance we follow the attached.

On the SAB, eight members 3 year terms expired October 1, 2018 and are eligible for reappointment. Those members are Dr. Ken Ramos (Medicine Toxicology) who chairs the Chemical Assessment Advisory Committee, Dr. Jay Turner (Air Quality Engineer) who chairs the Scientific and Technical

Achievement Awards Panel, Dr. Sue Marty (Toxicology), Dr. Susan Felter (Toxicology), Dr. Tara Sabo Atwood (Ecotoxicology), Dr. Kenneth Portier (Statistics), Dr. Thomas Parkerton (Ecotoxicology), Dr. Robert Mace (Hydrology). We plan to reappoint them all. Also, on not following our rules, I really have no idea what you are talking about. Other than receiving grants, the conflicts of interest rules are the same. We have given board members notice now in two application processes.

Finally, page 11 of the opinion says that regardless of a proposed or final rule addressing EPCRA that reporting from animal waste is not required under EPCRA due to the FARM Act. That's why I say it caught our attention. In this case, the FARM Act was not enacted at the time. Administrator Pruitt issued guidance relying on the agricultural exemption from reporting. That is and would be a very broad exemption (which is also discussed in the case). The recent proposal we issued doesn't rely on the agricultural exemption. We believe a rulemaking based on that is too broad. We wanted to simply address animal waste emissions. Any kind of tank spill, other emissions, discharge to water, etc are all reportable under EPCRA. An agricultural exemption for that would be inappropriate and probably not supportable. Additionally, as I mentioned we are taking down the agricultural exemption guidance anyway as too broad. That is a policy win for you too.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Monday, November 19, 2018 2:32 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Thanks Ryan

We appreciate the constructive engagement, and have a few thoughts to share in response.

First of all, on McIntosh – we are working to resolve the hold and will let you know if we run into problems. We ran that hotline without doing proactive member outreach because we had socialized it in advance with

our LAs, and McIntosh is not a high-profile nominee. The hold is from an off-EPW Member we could not have anticipated. Hopefully it will be fine.

On Wright, we know there is a lot of on and off Committee interest in him, as well as widespread environmental NGO opposition to him. Assuming we get to a good resolution with you, we'll need to treat a potential hotline on him differently than we did for McIntosh, and spend more time proactively describing and selling the package. We would be working in good faith towards a voice vote and would actively help resolve problems if they arise.

Now to your points below:

1. **Secret science** – will look forward to reviewing the next draft. Just as a matter of interest and by way of example, unfortunately, lots of workers were exposed to PCBs and asbestos in the 1950s. It isn't exactly an experiment anyone wants to repeat, but is a way to explain the concern we have about older studies.
2. **Formaldehyde –** The problem with a TSCA-RE-only approach is that OW, OAR and/or OLEM can use an IRIS RA to inform future efforts in their programs because IRIS gets you a toxicity evaluation, including a reference dose/concentration. A TSCA RE doesn't get you that (which doesn't mean a TSCA RE is not useful – just saying they are different products that are used for different purposes). Appreciate your receptivity here. As I understand the normal 7-step IRIS process, it would be a 30-day EPA review, then a 60-day intra-agency review, then a 60-90 day public review, then back to NAS, and could thus in theory be completed in just over a year. What we want is for the formaldehyde IRIS assessment to be immediately freed up to follow the IRIS process/timelines that are normal. So a letter saying that, and committing to inform TC if any step takes longer than normal, could be one way to go? We can review text in advance as with other efforts.
3. **SAB –** Happy to look at your list. It isn't just the conflict of interest part of the process that we have issue with, but also the manner in which nominees are selected for qualifications and balance that is not being followed
4. **PFAS –** let us know what that language looks like
5. **TA –** thanks

6. **FARM court case** – I am not the subject matter expert on this, but I think you may be making our point for us. That court decision relied on EPA guidance that was not an accurate description of the FARM Act , which is why we were so unhappy with the way EPA was describing the FARM Act.

Thanks again
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works
Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Sunday, November 18, 2018 10:16 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I can understand initial holds because we are EPA. However, the general perspective is that we plan to answer Republican and Democratic letters. We have, and we will and more. If there's something a member would like, it may take time but we will try to comply. In other words, we want to cooperate with them, but I need to have program directors here to do that.

There's a lot of people who work for Ford. Saying that Chad is responsible for all things Ford is the same as the NYT trying to say that Peter is responsible for all things Dow which also was successfully shot down in that article by Region 5 attorneys and staff who worked with Peter while at Dow. Chad was the director of global environmental policy for Ford when this situation was uncovered meaning he was working on Ford issues in Europe and South America. He never worked on this issue. If he had though, it would have been a good thing for Ford and the community because he would have solved it.

On the letter, we can accept most the suggestions.

? We agree to incorporate sending the proposal to the SAB to review. It would be helpful. We don't believe we have an ERDDA problem. EPA complies with ERDDA outlined in the Goo Memo. Unfortunately, I'm at home so I will send in the morning.

- We can incorporate your changes on retroactivity. The text we provided we believed not only said that but provided the exact language in the proposed rule to illustrate that.
- We can incorporate your changes on PII. However, I don't think it's good for us to rely on a study from the 1950s.
- We can incorporate your changes on the top of the second page on providing legal authority, however, I'm not sure how we will conduct an RIA on internal agency procedures. We don't have an obligation to do that, and I'm not sure how to assess costs within EPA. Additionally, we don't imply. We either say it or not.
- We can incorporate your changes concerning compliance with other laws, although I don't know if we will use those cites and I would have to check the cites. There's one reference that the Clean Air Act requires agencies to do something instead of simply referencing EPA, but I would imagine that's subject to come clean up.

I can send a final draft tomorrow.

On formaldehyde, if you want an IRIS inter-agency process to happen on this which we have no control over, I can agree to that but I need to check with others here. Although Lautenberg allows 3.5 years it doesn't have to take that long. We can conduct a very public risk evaluation for the conditions of use which includes all foreseeable uses in the judgment of the Administrator so yes we can evaluate for all uses. The result of that risk evaluation is regulation. The result of an IRIS review is a nice binder for the shelf which is part of the problem with that program. Additionally, this IRIS study on formaldehyde is something which has been ongoing for about 10 years and has until recently been criticized by the NAS and Congressional appropriations report language for its prior iterations. So yes, let me get back with you as soon as I'm able with probably an acceptance of this one too. We don't believe this is the way to approach a review of formaldehyde.

On the SAB, we are applying the same conflicts of interest rules we have always applied with the exception that if you are receiving a grant from EPA you unable to serve on the SAB. However, the specific offer was that there are 8 SAB members which have completed their first term. We propose reappointing all 8. I can provide their names tomorrow.

On PFAS, I need to check if we can lift the current draft language to send, but if we can we will accept this.

Finally, we can make a couple staff available to talk about off cycle and air conditioning credits for an hour? Let me know when works to do that. Also, I'm slow on getting a very recent federal district court case to you. It's in the 9th Circuit so maybe it doesn't matter on appeal, but the 9th Circuit is a big place. Regardless, we noticed it.

However, THE question I'm going to get when I take all this back is what do we get for doing this especially with word of a hold on Chad especially because we do have a problem with some of these requests. We need to have a telephone discussion of what this does.

Thanks.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Friday, November 16, 2018 11:28 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Ryan

Thanks for this response and for talking through some of the related issues with MF yesterday. Before sharing our response to the Wright-related matters, I wanted to let you know that we are trying to address the hold on Chad McIntosh, which as I mentioned last night, relates to this, and the hold was not lodged by a MI Senator. The fact that we have a hold on McIntosh is illustrative of the challenges EPA faces when asking to confirm any nominees through UC. We will keep you posted. We understand that there is also a blanket hold on ALL nominees for all agencies, but there is nothing we can do on that and assume it will work itself out before sine die. In the meantime, here is our response to the Wright-related matters. As always, we are happy to discuss.

1. **Secret science** Thank you for your effort to memorialize in part the conversations we have had with you, and that TC and AW have had, on this matter. We know your draft letter was a

good-faith effort. However, there were some inaccuracies and misunderstandings associated with your draft. Attached is our redline, which you should read on a PC because we tried to explain in comment boxes the reasons for our suggested edits.

2. **Formaldehyde** It does not work for us to move this request into a TSCA RE. That would add 3.5 additional years to an already years-long expensive effort, would not result in a useful product for the non-OCSPP program offices. Moreover, even if you DID consider all conditions of use, you would violate your own (illegal) TSCA rules, and more years-worth of litigation would ensue. What we want is for the IRIS risk assessment for formaldehyde to continue to be processed using the normal IRIS procedures (which I believe were actually written by Nancy Beck when she was at OMB), without additional delay. I do not believe there is middle ground on this request, but if you feel creative, let us know.

3. **Science panels** What we are looking for is a return to your normal procedures (including for how conflicts of interest are assessed) for appointments and reappointments. These procedures are documented in writing at EPA, but EPA is not following them. I understand you mentioned the potential for a compromise involving some specific re-appointments. I would be interested in additional specificity (names, what panel, etc) on that so we can better respond to that offer.

4. **PFAS/CERCLA** We are glad that this is within the scope of your PFAS action plan, and know that it would need to be undertaken by rulemaking and thus could not be completed before the end of the Congress. Could AW make a written commitment to Senator Carper that this will occur and provide a rough timeframe for the NPRM and final agency action? We can edit draft letter language quickly.

5. **FARM** We understand that our staff and yours will engage substantively in coming days/weeks. As part of the conversation RJ and MF had yesterday, she also flagged more systemic concerns about the manner in which the agency engages with us. To that end, I've flagged for both of you, repeatedly, a TA

request on cars I submitted about 3 weeks ago that Mandy has told EPA career staff they do not have permission to undertake. I'd like that call to occur early next week. Note that I do not consider this a 'give' on your part – I consider the provision of TA to be the normal manner in which EPA has historically done its job.

Thanks very much

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works
Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:29 AM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Peter Wright

To provide a specific update on this and overall update, we are updating and clarifying text for this answer. I'm anticipating getting some final language or simply thumbs up from our program office shortly. I also will provide an update to the EPCRA 304 site on the cites used.

On the accidental releases terminology, our program offices chose that term to distinguish a one-time, inadvertent release from a "continuous release" that "occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes." 40 CFR 302.8(b). There's different reporting requirements under CERCLA 103(f)(2) and EPCRA 304 for continuous releases versus a temporary or accidental or one time one. That's the distinction they report to me they are attempting to make.

On science transparency rules, you may have noticed that the unified regulatory agenda places it further out because of the anticipated time involved on this. The attached draft is an example of what we could provide to answer some specific and overall questions from the Senate about our timing, thoughts, and any path forward.

The formaldehyde study might have a pathway ahead which would be better than sending the study through intra-agency review, but I hope to have an answer on that soon.

On the science boards, there's a track record of board members leaving or not getting reappointed. However, it's not easy to determine why. Maybe they didn't apply or maybe they did. We have reappointed some and accepted new applicants in other cases and can provide that information. We can also provide the nominating individuals too. Some self nominate, but others come from other sources if that's of interest.

Finally, on CERCLA eligibility, we are in the process of putting together our PFAS strategy based on the 6 townhalls and record which closed 3 weeks ago. This is within that process. But also, this will require rulemaking which is not entirely within our control and for this will take a while. Something to get this request narrowed would be worth talking about, I think.

From: Repko, Mary Frances (EPW) [mailto:mary_frances_repko@epw.senate.gov]
Sent: Friday, October 5, 2018 5:47 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

Ryan,

We are glad you took down the guidance link from the website, and that is helpful. But there are a few more issues with what the agency's website says now that the guidance is down.

The site says:

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?
No. Based on the criteria for EPCRA section 304 release reporting, air emissions from animal waste (including decomposing animal waste) at a farm do not need to be reported under EPCRA.

Furthermore, the statute excludes farms that only use substances in "routine agricultural operations" from reporting releases of hazardous substances under EPCRA section 304. For more information, please see: EPCRA Q&A.

- While you don't have a link to the guidance doc, the website refers to it by citing the specific criteria under 304. It would be better if the website language were more simple:

  No. The EPA has interpreted the "routine agricultural operations" exemption under EPCRA section 304 to not require reporting from farms. For more information, please see: EPCRA Q&A.

- Also, the website's link to EPCRA 304 talks about accidental releases. That's not a word used in the statute, and certainly EPCRA reporting isn't limited to just accidental releases, but rather to any release that isn't federally permitted and that doesn't fall into one of the exemption categories in the statute.

- Finally, you need to update the links to the CFR on the EPCRA 304 page, since what is linked to is now out of date, having been modified by the CFR changes made to reflect the recent vacature order by the DC Circuit of the 2008 rule.

Hope that's clear,
MF

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Wednesday, October 3, 2018 8:03 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW)
<mary_frances_repko@epw.senate.gov>; Lyons, Troy
<lyons.troy@epa.gov>
Subject: Re:

Thanks!

Sent from my iPhone

> On Oct 3, 2018, at 6:40 PM, Jackson, Ryan
<jackson.ryan@epa.gov> wrote:
>
> We'll have the changes to the FARM Act website posted within the next 30 minutes.

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>
>
>
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 11/27/2018 8:31:11 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]; Lyons, Troy [lyons.troy@epa.gov]; Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: re - Dunn

Will send you something back on the Wright letter soon, but would like to discuss these additional yellow highlighted items from the original Dunn list.

I tried to put your response in red text below the item so we could keep track of where we are on all of them.

Green highlight means I think we are resolved and just need to figure out words for a letter – thank you. On the rest of the red text, I just need to spend a few min thinking about these responses but will get back to you shortly.

Also though I have not highlighted the ethylene oxide item, I did receive another note about that from Senator Duckworth's staff today and just flag it for you again without specificity.

1. **PMN transparency measures** — EPA has reduced the information that is available to the public as it evaluates PMNs. We would like this remedied by 1/15/19, and would like the following materials be made available:
   - Each PMN and its attachments, all amendments, correspondence with EPA, and other supporting documentation in an electronic docket within 15 days of receipt of the PMN; and publication of the FR notice of receipt required under 5(d) within 30 days of PMN receipt.
   - EPA's underlying risk assessment documents that support each "not likely to present an unreasonable risk" determination EPA makes on PMNs, at the same time that the determination is communicated to the PMN submitter and posted on EPA's website.
   - EPA career staff's "interim recommendation" on each PMN substance undergoing review.

From RJ:
We can place PMNs and associated documents on EPA's website but can't commit to within 15 days because the CBI comb through takes longer than that. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific or generic name if CBI).
- TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
- NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.

2. **Section 5 framework:** EPA released a framework on how it would implement section 5 about a year ago, and held a public meeting and received written comments on it. While EPA appears to have subsequently made changes to the manner in which it is evaluating new chemicals, it has never modified or re-published this framework document to reflect those changes. We would like EPA to commit to publicly release a revised section 5 framework document by 1/15/19 that includes EPA's legal justifications for it, and take additional public comments on it.

From RJ:
We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating

new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued.

3. **CBI substantiation**– Section 14(c)(3) of new TSCA requires submitters of information to substantiate CBI claims. In addition, recognizing EPA's responsibility to weed out unwarranted CBI claims, section 14(g)(1)(A) requires EPA to review and either approve or deny CBI claims within 90 days of receipt. Under section 14(g)(1)(C), this review process must address all CBI claims for chemical identity and a representative subset of other claims comprising at least 25 percent of the total submitted. It is hard to see whether all of those things are happening, because so much of the PMN submittals and EPA's review thereof are redacted. Could EPA commit to issuing a report by July 1, 2019 that describes its efforts to comply with the CBI requirements in sections 14(c)(3) and 14(g)(1), and seek public comment and recommendations for improved management and review of CBI claims?

From RJ: We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements

4. **CBI re-substantiation -** new TSCA says that "[t]he Administrator may require any person that has claimed protection for information from disclosure under this section, whether before, on, or after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to reassert and substantiate or re-substantiate the claim in accordance with this section— (A) after the chemical substance is designated as a high-priority substance under section 6(b) …" 15 USC 2613(f)(1). We would like EPA to commit to undertake re-substantiation of CBI claims for chemical substances undergoing REs, and make public any information for which the CBI claim(s) are no longer valid before the draft RE is published for comment.

From RJ: and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29.

5. **State CBI sharing** – states have told me there are deviations from the law in how EPA is sharing CBI with them. I've requested more information and when I get it I will send it your way. This is a placeholder for now.

6. **Worker protections/SNURs** – For 16 recent PMNs, EPA identified the potential for unreasonable health risks to workers but, as a matter of policy, decided not to require workplace protections under section 5(e) orders or SNURs, and deemed the chemicals to be "not likely" to pose an unreasonable risk. This is a departure from the approach EPA has followed under both old and new TSCA. We would like EPA to resume issuing section 5(e) orders and SNURs protecting workers from such risks when they are identified in the Agency's reviews of new chemicals.

7. **Systematic review** – OCSPP has developed its own systematic review document even though ORD's has been largely blessed by the NAS. We'd like the OCSPP version to be withdrawn and/or not used until it is reviewed by NAS, and NAS feedback incorporated.

8. **PFAS SNUR** – EPA proposed its PFAS SNUR in 2015, and EPA has repeatedly said it is revising it to reflect new TSCA but planned to finalize it. We'd like a commitment that it be finalized by a date certain and assurance that its scope has not changed from what was proposed. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the language you're currently using In that document and seeing if that language can be sent to TC in a letter.

From RJ: The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

9. **PFAS information -** EPA has acknowledged that it lacks information about many PFAS chemicals. We would like EPA to commit to use EPA's authority under TSCA Section 8(a)(2) to require PFAS manufacturers and processors to submit information concerning the production, use, and impacts of PFAS chemicals. My guess is this is in the mix on your PFAS management plan and that we could begin conversation on this item by reviewing the

language you're currently using In that document and seeing if that language can be sent to TC in a letter. If there are other ways to get this information (section 4 orders, for example), we are definitely open.

10. **MC ban** – We would like the ban on all consumer and most/all commercial uses to be finalized. I understand your challenge is OMB. Perhaps one way to deal with this would be to figure out how AW could communicate the OMB problem more clearly - this will obviously be raised both at the Dunn hearing and at AW's confirmation hearing.

11. **Comment period and peer review of risk evaluations:** We would like a 120 day comment period for the rest of the first 10 REs. They're the first REs to be conducted under the new law and many of them will be released for public comment simultaneously, which will be difficult for commenters to handle. We would also like to ensure that CSAC is properly set up for a separate peer review of each of the REs, and can suggest some measures that could help with that. These include augmenting the CSAC with chemical-specific expertise if necessary (and allow the public to suggest new chemical-specific reviewers as it has in other similar situations), ensuring that CSAC members reviewing particular REs do not have conflicts of interest associated with the particular chemical, providing separate CSAC peer review documents for each RE so that the public can understand the nature of the CSAC input, and respond in each final RE to public comments and peer reviewer input. If needed, EPA has the additional 6 month extension TSCA provided in which to take these measures, which I know is non-ideal, but these are the first ten and probably need more attention.

12. **Agricultural Worker Protection Standard (WPS) rule and the Certification of Pesticide Applicators (CPA) rule** – withdraw the proposed modifications to these rules (we believe you already offered to do this and that's basically what the Senate did in PRIA)

From RJ: The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

13. **PCB rule** – The Obama Administration sent a proposed rule to OMB that was never published. As I understand it, it basically makes schools remove ancient PCB light fixtures so the PCBs don't rain down on kids' heads anymore. These fixtures are well beyond their useful lifetime. We'd like that rule to be revived and proposed/finalized.

14. **CDR:** EPA received CDR data from industry some time ago and continues to say it will soon publish the CDR. We would like EPA to commit to publish the CDR by 1/15/19, and additionally commit not to revise the CDR rule for the rest of this Administration.

15. **Ethylene oxide** – no specific request here, but I'm aware of your ongoing dialogue with the Duckworth (and other) offices on this so I'm flagging it as a potential issue of interest.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 1:29 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Attached is a new letter concerning the science rule and SAB.

We have a suggestion on PFAS which you may be more interested in, maybe not.

On the other list, here are items which we can write back to do:

We can place PMNs and associated documents on EPA's website but can't commit to within 15 days because the CBI comb through takes longer than that. We can commit to briefing the committee on what our plan is to place more PMN information on the website. We can commit to posting PMNs in the Federal Register every month. We can in fact commit to placing PMNs, the exemptions (TMEs), and notices of commencement in the Federal Register each month. We should be doing this anyway, but this is specifically what we can provide monthly:

- PMNs/SNUNs/MCANs: Case number, amendment number and version, date received, manufacturer (if not CBI), use (specific or generic if CBI), chemical substance (specific or generic name if CBI).
- TME information: Case, Submission type, Version, Received date, Manufacturer, Use, Chemical substance.
- NOC information: Case, Received date, Commencement date, If amendment and type of amendment (amendment to generic name, specific name, technical contact information, etc.), chemical substance.

We can also discuss a standard operating procedure we are probably 60 days out from finalizing on making public more material substantiating the not likely determinations. We can write to commit to brief the committee on that procedure when it's ready to be released. On the framework, we can provide a letter as well or briefing on how we are evaluating new chemicals and could commit to holding another public meeting on that. The framework was described in the document as a work in progress when issued.

I can understand the CBI claims and who that's important to in particular. We can commit to provide a report or letter or whatever the form on how we are handling CBI requirements and we can in the same response commit to reviewing CBI claims for chemicals in RE's. Are you simply talking about the first ten though? We will review the claims but we also will issue the RE's for the first ten in February too in a very similar fashion to PV29. The PFAS SNUR is referenced in the upcoming report as well so that is very doable to commit to.

The WPS and certified use and designated representative provision at OMB can be withdrawn and we can write back on that as well.

There may be some more substance to provide on these, but this is about as far as we are able to go on that list. I'm glad to talk about other things on that list, but I'm a best offer kind of a guy without too much effort to low ball and offer. I want to offer what I really think we can do, so that's what this represents.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 11:45 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

Thanks! – want to send us what you are proposing back on PFAS and CH2O and SAB as edits to the same letter? On SAB, I think we are fine with the 8 reappointments, the text we sent you about career staff advice, and depending on the call tomorrow we may want to add some document production (forward-looking, a commitment to provide some materials in the future, not before confirmation or a hotline etc), but do not expect to have new requests on policy on the advisory committee front. Happy to work to resolve a final letter text today and then start socializing this to folks.

We are headed in to talk to TC right now but can make time this afternoon if you want to talk through logistics, Dunn, or anything else.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 27, 2018 11:37 AM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

We can accept that edit.

I am strengthening the PFAS answer presently. I need to get some answer concerning formaldehyde so that everyone understands the procedure moving forward, but we can agree to IRIS processing of the chemical.

Finally, I have responses to the list of items concerning Alex, however, we need to have a conversation about it and what happens to all this if Peter and Chad can't get confirmed.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Tuesday, November 27, 2018 9:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

The Wehrum letter committed to the future denial of a rulemaking petition before it actually did so, among other commitments made. But in lieu of the first suggested edit, how about this one, which is intended to mirror a commitment to a policy but not specify a rulemaking outcome in a different part of the letter?

Let us know when you want to talk to figure the rest (formaldehyde and PFAS in particular) out. Happy to also share what I'm thinking in terms of process and what we will do to pave the way assuming we get to a good place on the substance.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, November 26, 2018 9:04 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Peter Wright

We didn't propose doing credit for exporting ethanol.

Ryan Jackson
Chief of Staff

U.S. EPA
202-564-6999

On Nov 26, 2018, at 7:52 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:

Why not? You did exactly that for Wehrum/Ernst didn't you?

Sent from my iPhone

On Nov 26, 2018, at 7:42 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

We cannot put in a letter that the final rule will say something in particular. We cannot accept that last edit.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Wednesday, November 21, 2018 3:21 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Ryan – thanks for the response. We are definitely making progress.

First of all, just to respond to the Goo/SAB/ERRDA issue, the Goo memo explicitly refers to the **pre**-proposal stage, so we continue to think you are out of compliance with ERRDA. There is case law on this point that I imagine your lawyers are well aware of. I think the additions you made to the letter regarding SAB input and the need to re-propose may render this a moot point. Here is the rest (minus FARM)-

1. **Secret science** – added a very minor suggested tweak, and continue to wonder about the RIA. This rule will have impacts on other rules EPA promulgates, so it isn't entirely fair to say that the RIA isn't needed because this rule is only about EPA administration costs. I'd just ask that you think about that one again. But this letter is coming along and we appreciate it.

2. **Formaldehyde** – nothing new here, just waiting for you to get back to us on the pending request.

3. **SAB** – Re-appointing the 8 is very helpful - thanks. Happy to talk to the person you recommend we talk to as well, especially after you and he reviews what I'm including below.

   We want to talk further about process, but are willing to drop the proposal that you abandon the EPA grants conflict of interests thing (which we hate, so abandoning it is an accommodation on our part). When we talk about process, it isn't just about the EPA grants conflict of interest. It's about how recommendations are made for who to appoint. You have 7 SAB members that you're in the process of re-appointing, and a bunch of pending nominees for these slots. Historically, as nominees were being considered, EPA career staff would look at who was leaving and what needs SAB had in the coming year. So, for example, if all 7 departing people were industry people, one would expect

the career staff to recognize that the SAB balance would argue for the appointment of new industry people and they would prepare options for new nominees that would be mostly or all industry people. If two of the 7 departing people were the SAB's only epidemiologists, and career staff knew that in the next year the SAB had a ton of epidemiology to do, they would prepare options for new nominees that would ensure the SAB retained its epidemiology capacity. Career staff would send decision-makers some document(s) that described who was leaving, what capacity was being lost, and recommend options for new appointees that addressed concerns that SAB retain diverse and qualified members and maintain core capacity. This Administration seems to have abandoned that process at least for some advisory committees. We'd like you to return to it. Note that decision-makers can choose not to accept the career staff recommendations, but those decision-makers should at least have the benefit of career staff input.

Perhaps you could also include in a commitment letter on this that "EPA will follow its past practice of obtaining information and recommendations from EPA's career staff to ensure that new appointees to EPA's scientific advisory committees are independent, well-qualified, free of conflicts of interest, come from diverse technical and professional backgrounds and possess expertise in areas that the agency anticipates to be relevant in planned or anticipated reviews."

4. **PFAS** – nothing new here, just let us know what that language looks like

5. **TA** – thanks – had a brief call with the staff and sent some follow-up questions in writing. I'd really appreciate fast turnaround, and I tried hard to make them easy questions.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, November 20, 2018 7:25 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I think this email is the latest among us. Now, the draft science policy letter is attached. It received the highest level of review. To follow up on the SAB issues, Tom Brennan is the director of the SAB and has been involved in the last two rounds of selections as director. Prior to that, Tom was the deputy for Zarba. He can answer any questions regarding conflict policy, and I can place him on the phone next week.

From: Jackson, Ryan
Sent: Monday, November 19, 2018 7:20 PM
To: 'Freedhoff, Michal (EPW)' <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

So just a couple of points of initial feedback. The draft science policy letter is being reviewed presently. However, for ERDDA compliance we follow the attached.

On the SAB, eight members 3 year terms expired October 1, 2018 and are eligible for reappointment. Those members are Dr. Ken Ramos (Medicine Toxicology) who chairs the Chemical Assessment Advisory Committee, Dr. Jay Turner (Air Quality Engineer) who chairs the Scientific and Technical Achievement Awards Panel, Dr. Sue Marty (Toxicology), Dr. Susan Felter (Toxicology), Dr. Tara Sabo Atwood (Ecotoxicology), Dr. Kenneth Portier (Statistics), Dr. Thomas Parkerton (Ecotoxicology), Dr. Robert Mace (Hydrology). We plan to reappoint them all. Also, on not following our rules, I really have no idea what you are talking about. Other than receiving grants, the conflicts of interest rules are the same. We have given board members notice now in two application processes.

Finally, page 11 of the opinion says that regardless of a proposed or final rule addressing EPCRA that reporting from animal waste is not required under EPCRA due to the FARM Act. That's why I say it caught our attention. In this case, the FARM Act was not enacted at the time. Administrator Pruitt issued guidance relying on the agricultural exemption from reporting. That is and would be a very broad exemption (which is also discussed in the case). The recent proposal we issued doesn't rely on the agricultural exemption. We believe a rulemaking based on that is too broad. We wanted to simply address animal waste emissions. Any kind of tank spill, other emissions, discharge to water, etc are all reportable under EPCRA. An agricultural exemption for that would be inappropriate and probably not supportable. Additionally, as I mentioned we are taking down the agricultural exemption guidance anyway as too broad. That is a policy win for you too.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Monday, November 19, 2018 2:32 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Thanks Ryan

We appreciate the constructive engagement, and have a few thoughts to share in response.

First of all, on McIntosh – we are working to resolve the hold and will let you know if we run into problems. We ran that hotline without doing proactive member outreach because we had socialized it in advance with our LAs, and McIntosh is not a high-profile nominee. The hold is from an off-EPW Member we could not have anticipated. Hopefully it will be fine.

On Wright, we know there is a lot of on and off Committee interest in him, as well as widespread environmental NGO opposition to him. Assuming we get to a good resolution with you, we'll need to treat a potential hotline on him differently than we

did for McIntosh, and spend more time proactively describing and selling the package. We would be working in good faith towards a voice vote and would actively help resolve problems if they arise.

Now to your points below:

1. **Secret science** – will look forward to reviewing the next draft. Just as a matter of interest and by way of example, unfortunately, lots of workers were exposed to PCBs and asbestos in the 1950s. It isn't exactly an experiment anyone wants to repeat, but is a way to explain the concern we have about older studies.
2. **Formaldehyde** – The problem with a TSCA-RE-only approach is that OW, OAR and/or OLEM can use an IRIS RA to inform future efforts in their programs because IRIS gets you a toxicity evaluation, including a reference dose/concentration. A TSCA RE doesn't get you that (which doesn't mean a TSCA RE is not useful – just saying they are different products that are used for different purposes). Appreciate your receptivity here. As I understand the normal 7-step IRIS process, it would be a 30-day EPA review, then a 60-day intra-agency review, then a 60-90 day public review, then back to NAS, and could thus in theory be completed in just over a year. What we want is for the formaldehyde IRIS assessment to be immediately freed up to follow the IRIS process/timelines that are normal. So a letter saying that, and committing to inform TC if any step takes longer than normal, could be one way to go? We can review text in advance as with other efforts.
3. **SAB** – Happy to look at your list. It isn't just the conflict of interest part of the process that we have issue with, but also the manner in which nominees are selected for qualifications and balance that is not being followed
4. **PFAS** – let us know what that language looks like
5. **TA** – thanks
6. **FARM court case** – I am not the subject matter expert on this, but I think you may be making our point for us. That court decision relied on EPA guidance that was not an accurate description of the FARM Act , which is why we were so unhappy with the way EPA was describing the FARM Act.

Thanks again
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Sunday, November 18, 2018 10:16 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Peter Wright

I can understand initial holds because we are EPA. However, the general perspective is that we plan to answer Republican and Democratic letters. We have, and we will and more. If there's something a member would like, it may take time but we will try to comply. In other words, we want to cooperate with them, but I need to have program directors here to do that.

There's a lot of people who work for Ford. Saying that Chad is responsible for all things Ford is the same as the NYT trying to say that Peter is responsible for all things Dow which also was successfully shot down in that article by Region 5 attorneys and staff who worked with Peter while at Dow. Chad was the director of global environmental policy for Ford when this situation was uncovered meaning he was working on Ford issues in Europe and South America. He never worked on this issue. If he had though, it would have been a good thing for Ford and the community because he would have solved it.

On the letter, we can accept most the suggestions.

- We agree to incorporate sending the proposal to the SAB to review. It would be helpful. We don't believe we have an ERDDA problem. EPA complies with ERDDA outlined in the Goo Memo. Unfortunately, I'm at home so I will send in the morning.
- We can incorporate your changes on retroactivity. The text we provided we believed not only said that but provided the exact language in the proposed rule to illustrate that.
- We can incorporate your changes on PII. However, I don't think it's good for us to rely on a study from the 1950s.
- We can incorporate your changes on the top of the second page on providing legal authority, however, I'm not sure how we will conduct an RIA on internal agency procedures. We don't have an obligation to do that, and I'm not sure how to assess costs within EPA. Additionally, we don't imply. We either say it or not.
- We can incorporate your changes concerning compliance with other laws, although I don't know if we will use those cites and I would have to check the cites. There's one reference that the Clean Air Act requires agencies to do something instead of simply referencing EPA, but I would imagine that's subject to come clean up.

I can send a final draft tomorrow.

On formaldehyde, if you want an IRIS inter-agency process to happen on this which we have no control over, I can agree to that but I need to check with others here. Although Lautenberg allows 3.5 years it doesn't have to take that long. We can conduct a very public risk evaluation for the conditions of use which includes all foreseeable uses in the judgment of the Administrator so yes we can evaluate for all uses. The result of that risk evaluation is regulation. The result of an IRIS review is a nice binder for the shelf which is part of the problem with that program. Additionally, this IRIS study on formaldehyde is something which has been ongoing for about 10 years and has until recently been criticized by the NAS and Congressional appropriations report language for its prior iterations. So yes, let me get back with you as soon as I'm able with probably an acceptance of this one too. We don't believe this is the way to approach a review of formaldehyde.

On the SAB, we are applying the same conflicts of interest rules we have always applied with the exception that if you are receiving a grant from EPA you unable to serve on the SAB. However, the specific offer was that there are 8 SAB members which have completed their first term. We propose reappointing all 8. I can provide their names tomorrow.

On PFAS, I need to check if we can lift the current draft language to send, but if we can we will accept this.

Finally, we can make a couple staff available to talk about off cycle and air conditioning credits for an hour? Let me know when works to do that. Also, I'm slow on getting a very recent federal district court case to you. It's in the 9th Circuit so maybe it doesn't matter on appeal, but the 9th Circuit is a big place. Regardless, we noticed it.

However, THE question I'm going to get when I take all this back is what do we get for doing this especially with word of a hold on Chad especially because we do have a problem with some of these requests. We need to have a telephone discussion of what this does.

Thanks.

From: Freedhoff, Michal (EPW) [mailto:Michal_Freedhoff@epw.senate.gov]
Sent: Friday, November 16, 2018 11:28 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: RE: Peter Wright

Ryan

Thanks for this response and for talking through some of the related issues with MF yesterday. Before sharing our response to the Wright-related matters, I wanted to let you know that we are trying to address the hold on Chad McIntosh, which as I mentioned last night, relates to this, and the hold was not lodged by a MI Senator. The fact that we have a hold on McIntosh is illustrative of the challenges EPA faces when asking to confirm any nominees through UC. We will keep you posted. We understand that there is also a blanket hold on ALL nominees for all agencies, but there is nothing we can do on that and assume it will work itself out before sine die. In the meantime, here is our response to the Wright-related matters. As always, we are happy to discuss.

1. **Secret science** Thank you for your effort to memorialize in part the conversations we have had with you, and that TC and AW have had, on this matter. We know your draft letter was a good-faith effort. However, there were some inaccuracies and misunderstandings associated with your draft. Attached is our redline, which you should read on a PC because we tried to explain in comment boxes the reasons for our suggested edits.

2. **Formaldehyde** It does not work for us to move this request into a TSCA RE. That would add 3.5 additional years to an already years-long expensive effort, would not result in a useful product for the non-OCSPP program offices. Moreover, even if you DID consider all conditions of use, you would violate your own (illegal) TSCA rules, and more years-worth of litigation would ensue. What we want is for the IRIS risk assessment for formaldehyde to continue to be processed using the normal IRIS procedures (which I believe were actually written by Nancy Beck when she was at OMB), without additional delay. I do not believe there is middle ground on this request, but if you feel creative, let us know.

3. **Science panels** What we are looking for is a return to your normal procedures (including for how conflicts of interest are assessed) for appointments and reappointments. These procedures are documented in writing at EPA, but EPA is not following them. I understand you mentioned the potential for a compromise involving some specific re-appointments. I would be interested in additional specificity (names, what panel, etc) on that so we can better respond to that offer.

4. **PFAS/CERCLA** We are glad that this is within the scope of your PFAS action plan, and know that it would need to be undertaken by rulemaking and thus could not be completed before the end of the Congress. Could AW make a written commitment to Senator Carper that this will occur and provide a rough timeframe for the NPRM and final agency action? We can edit draft letter language quickly.

5. **FARM** We understand that our staff and yours will engage substantively in coming days/weeks. As part of the conversation RJ and MF had yesterday, she also flagged more systemic concerns about the manner in which the agency engages with us. To that end, I've flagged for both of you, repeatedly, a TA request on cars I submitted about 3 weeks ago that Mandy has told EPA career staff they do not have permission to undertake. I'd like that call to occur early next week. Note that I do not consider this a 'give' on your part – I consider the provision of TA to be the normal manner in which EPA has historically done its job.

Thanks very much

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:29 AM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Peter Wright

To provide a specific update on this and overall update, we are updating and clarifying text for this answer. I'm anticipating getting some final language or simply thumbs up from our program office shortly. I also will provide an update to the EPCRA 304 site on the cites used.

On the accidental releases terminology, our program offices chose that term to distinguish a one-time, inadvertent release from a "continuous release" that "occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes." 40 CFR 302.8(b). There's different reporting requirements under CERCLA 103(f)(2) and EPCRA 304 for continuous releases versus a temporary or accidental or one time one. That's the distinction they report to me they are attempting to make.

On science transparency rules, you may have noticed that the unified regulatory agenda places it further out because of the anticipated time involved on this. The attached draft is an example of what we could provide to answer some specific and overall questions from the Senate about our timing, thoughts, and any path forward.

The formaldehyde study might have a pathway ahead which would be better than sending the study through intra-agency review, but I hope to have an answer on that soon.

On the science boards, there's a track record of board members leaving or not getting reappointed. However, it's not easy to determine why. Maybe they didn't apply or maybe they did. We have reappointed some and accepted new applicants in other cases and can provide that information. We can also provide the nominating individuals too. Some self nominate, but others come from other sources if that's of interest.

Finally, on CERCLA eligibility, we are in the process of putting together our PFAS strategy based on the 6 townhalls and record which closed 3 weeks ago. This is within that process. But also, this will require rulemaking which is not entirely within our control and for this will take a while. Something to get this request narrowed would be worth talking about, I think.

From: Repko, Mary Frances (EPW) [mailto:mary_frances_repko@epw.senate.gov]
Sent: Friday, October 5, 2018 5:47 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

Ryan,

We are glad you took down the guidance link from the website, and that is helpful. But there are a few more issues with what the agency's website says now that the guidance is down.

The site says:

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?
No. Based on the criteria for EPCRA section 304 release reporting, air emissions from animal waste (including decomposing animal waste) at a farm do not need to be reported under EPCRA.
Furthermore, the statute excludes farms that only use substances in "routine agricultural operations" from reporting releases of hazardous substances under EPCRA section 304. For more information, please see: EPCRA Q&A.

- While you don't have a link to the guidance doc, the website refers to it by citing the specific criteria under 304. It would be better if the website language were more simple:

  No. The EPA has interpreted the "routine agricultural operations" exemption under EPCRA section 304 to not require reporting from farms. For more information, please see: EPCRA Q&A.

- Also, the website's link to EPCRA 304 talks about accidental releases. That's not a word used in the statute, and certainly EPCRA reporting isn't limited to just accidental releases, but rather to any release that isn't federally permitted and that doesn't fall into one of the exemption categories in the statute.

- Finally, you need to update the links to the CFR on the EPCRA 304 page, since what is linked to is now out of date, having been modified by the CFR changes made to reflect the recent vacature order by the DC Circuit of the 2008 rule.

Hope that's clear,
MF

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Wednesday, October 3, 2018 8:03 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re:

Thanks!

Sent from my iPhone

> On Oct 3, 2018, at 6:40 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> We'll have the changes to the FARM Act website posted within the next 30 minutes.
>
>
>
>
>
>
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>

Message

From: Alan Kabat [kabat@bernabeipllc.com]
Sent: 11/11/2018 2:28:42 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Wulffen, Rebecca [Wulffen.Rebecca@epa.gov]
CC: Kaiya Lyons [Lyons@bernabeipllc.com]; Lynne Bernabei [bernabei@bernabeipllc.com]; Michael Ellement [Ellement@bernabeipllc.com]
Subject: Dr. Ruth Etzel / EPA

Dear Mr. Jackson:

Ex. 6

Thank you for your attention to this request.

Alan

Alan R. Kabat
Bernabei & Kabat, PLLC
1400 - 16th Street, N.W., Suite 500
Washington, D.C. 20036-2223
tel. (202) 745-1942 (ext. 242)
fax (202) 745-2627
email: Kabat@BernabeiPLLC.com

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Message

From: Willey, Katharine (Judiciary-Rep) [Katharine_Willey@judiciary-rep.senate.gov]
Sent: 11/5/2018 8:23:44 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: EPA Counsel Position
Attachments: WilleyKatharine_Resume_2018.pdf

Mr. Ryan,

My name is Katharine Willey, and I'm a counsel who currently works for the Senate Judiciary Committee. I'm reaching out because Kolan Davis, our staff director, mentioned that you're currently looking to fill an EPA counsel position. I'd love to learn more about the position and the type of candidate you're looking for. I've attached a copy of my resume.

Best Regards,

Katharine L. Willey
Counsel, Office of the Chairman

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY
224 Dirksen Senate Office Building | Washington, DC 20510
phone: 202.224.5225

KATHARINE L. WILLEY

Ex. 6

Bar Admission Admitted to Iowa Bar in 2013.

Education

University of Iowa College of Law — Iowa City, Iowa
Juris Doctor — May 2013
Appellate Advocacy, Arbitration, Trial Advocacy, Medical Tutorial

Drake University — Des Moines, Iowa
Bachelor of Arts, Rhetoric, magna cum laude — May 2010
Phi Beta Kappa, University Honors, Departmental Honors, Carpenter Award for Outstanding Rhetoric Major, Editor-Drake Undergraduate Social Sciences Journal

Professional Experience

United States Senate Committee on the Judiciary — Washington, D.C.
Counsel, Office of the Chairman, Nominations — July 2018 – Present
Associate Counsel, Office of the Chairman, Nominations — August 2015 – June 2018
Legal Fellow, Office of the Chairman, Nominations — June 2015 – August 2015

Duties: Advised Committee on judicial and executive nominations. Prepared Committee members for over 50 hearings and vetted nominees. Conducted document review. Drafted questions, opening statements, questions for the record, legal reviews, and floor speeches for nominees. Briefed Senate staff on nominees and the confirmation process. Developed political and media strategy for nominees. Notable nominations include: Justice Neil Gorsuch, Justice Brett Kavanaugh, Attorney General Jeff Sessions, two deputy attorneys general, two associate attorneys general, an FBI director, a solicitor general, and over 40 circuit court judges. Drafted legislation and advised the Chairman on issues in a legislative portfolio that included: litigation financing, medical financing, medical malpractice litigation and tort reform, DOJ oversight, and AO oversight.

Legal Fellow, Office of the Chairman, Oversight and Investigations — February 2015 – June 2015

Duties: Wrote staff memos, witness questions, and statements. Assisted with investigations, which notably included: IRS oversight, FAFSA fraud, tax-exempt status of non-profit hospitals, HCV drug pricing, over prescription of antipsychotics for children enrolled in Medicaid, the Health Care Fraud Prevention Partnership, FDA conflicts of interest, patient exchange studies, Medicaid and Medicare fraud, FDA and CMS regulation of biosimilar drugs, CHIP program audits, 340B pricing programs, False Claims Act litigation, and improper provider payments.

U.S. District Court for the Southern District of Iowa — Davenport, Iowa
Law Clerk to the Honorable John A. Jarvey — August 2013 – September 2014

Duties: Researched, drafted, and edited orders and opinions in both the criminal and civil contexts. Prepared bench memos, drafted jury instructions, prepared for trial, and assisted during trial.

United States Senate Committee on the Judiciary — Washington, D.C.
Law Clerk, Office of the Minority, Crime and Constitution Division — May 2012 – August 2012

Duties: Prepared memos and briefed Senate staff for hearings on: DOJ oversight, FISA reauthorization, Justice for All, Second Chance Reauthorization, FBI whistleblower protection, prosecutorial misconduct, the Fast and Furious investigation, prescription drug abuse, prescription drug shortages, the Online Pharmacy Safety Act, and cybersecurity. Prepared questions for hearings. Drafted letters and statements for the Ranking member.

Northern District Bankruptcy Court of Iowa — Cedar Rapids, Iowa
Judicial Extern, Honorable Paul J. Kilburg — May 2010 – August 2010

Researched and prepared memoranda, assisted in trial, reviewed and summarized pending motions.

Message

From: IAPMO Government Relations [Office_of_IAPMO_Government_Relations@iapmo.org]
Sent: 10/23/2018 9:06:30 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] President Trump Signs Legislation Establishing WaterSense in Perpetuity

INTERNATIONAL ASSOCIATION OF
PLUMBING AND MECHANICAL OFFICIALS

101 Constitution Avenue, NW Suite 825 East
Washington, D.C. 20001

Ph: 202.445.7514
http://www.iapmo.org/GR

President Trump Signs Legislation Establishing WaterSense in Perpetuity

Washington, D.C. (Oct. 23, 2018) — In another and to date most definitive victory for IAPMO and its like-minded industry partners dedicated to the long-term success of the program, President Trump today signed S. 3021, the Water Resources Development Act (WRDA), "America's Water Infrastructure Act of 2018," which includes strong language officially authorizing the U.S. EPA's WaterSense® program in perpetuity.

Passage of S. 3021 statutorily imbeds the WaterSense program into U.S. law, shielding it from Executive action by requiring any future changes be made via an act of Congress. Previous victories merely secured extended funding year to year. The legislation passed the Senate by a 99-1 vote.

"In the past, the entire industry lived under the constant threat of WaterSense being eliminated," said Dain Hansen, IAPMO senior vice president of Government Affairs. "Fortunately, those days are now gone — we can now expect continued water savings, manufacturers and businesses can plan their future strategy with certainty, and the general public will know the label they have come to trust is here to stay. We applaud the efforts of congressional leaders from the House and Senate for codifying WaterSense."

A true public-private partnership, WaterSense is a voluntary product efficiency labeling program that identifies efficient and high-performing water-consuming products. While EPA spends approximately $3 million a year to administer the program, it has saved consumers more than $33 billion in water and energy bills since the program's inception in 2006. The program is widely supported across the building industry and has enjoyed bipartisan support on Capitol Hill throughout its existence. This support is not only due to the program's successful outcomes, but also because of the quality and integrity of the products bearing the WaterSense label, which are the result of federal government oversight and third-party certification.

Because of the value of WaterSense to their business, employees, communities, and customers, more than 1,700 manufacturers, water and energy utilities, distributors, state and local governments, non-profit organizations, trade associations, and retailers nationwide have partnered with the program.

"The WaterSense program helps consumers find products that use at least 20 percent less water and less energy than other products, so consumers can vote with their wallet and pick the products that best meet their needs and values." said Sen. Ben Cardin (D-MD), a senior member of the Senate Environment and Public Works Committee. "It's why long-term reauthorization of the WaterSense program is so critical. I've been please to work with IAPMO over the past several years to keep the WaterSense program on track and going strong."

Modeled after the ENERGY STAR program, WaterSense seeks to protect the future of the U.S. water supply by offering consumers a simple way to make product-purchasing choices that conserve water with no sacrifice to quality or performance. Services and products earning the WaterSense label have been certified as more efficient

than average products in the same category without affecting performance. Such products include toilets, urinals, showerheads, bathroom faucets, landscape irrigation controllers and pre-rinse spray valves.

IAPMO R&T is a leading provider of WaterSense product certification in the nation and has been a U.S. EPA licensed provider, accredited by the American National Standards Institute (ANSI), since 2007, certifying the first high-efficiency toilet (HET) to the standard in April of that year. To date, IAPMO R&T, part of The IAPMO Group, has certified thousands of such water-efficient products to the WaterSense specifications.

For more information on the legislation, contact Hansen at (202) 445-7514 or dain.hansen@iapmo.org.

# # #

Sponsor of the Uniform Codes, IAPMO® – The International Association of Plumbing and Mechanical Officials – works in concert with government and industry for safe, sanitary plumbing and mechanical systems. Learn more about IAPMO at www.iapmo.org.

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Click here to unsubscribe.

Message

From: Barb Glenn [barb@nasda.org]
Sent: 10/31/2018 9:48:00 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Barb Glenn [barb@nasda.org]
Subject: Reference FW: Thank you
Attachments: Ex. 6 Resume.pdf

Ryan,

Ex. 6 is an outstanding expert on agriculture, crop protection, pesticides, application technologies and the full EPA registration process. He led the AEM's agriculture portfolio for 10 years, from government affairs, to outreach and education. (On the latter, last summer AEM under his leadership hosted a field tour to farms in Maryland for EPA OPP and USDA NRCS staff to see pesticide precision ag in action.)

Please let me know if we can be of any assistance.

Regards,

Barb

Barbara P. Glenn, Ph.D.
Chief Executive Officer
National Association of State Departments of Agriculture
4350 Fairfax Drive Suite 910 Arlington, VA 22203
(202) 296-9680
Barb@nasda.org
www.nasda.org
@NASDANews

From: Ex. 6
Sent: Monday, October 29, 2018 6:51 PM
To: Barb Glenn
Subject: Thank you

Barb,

Thanks again for taking the time to meet with me today. Really appreciate any help you can offer.

As I mentioned I am exploring opportunities at EPA, USDA as well as with private companies and other associations. .

My resume is attached and below is cover letter text I used for a headhunter outreach in case the information in it is helpful.

From: Ex. 6
Sent: Saturday, October 20, 2018 8:32 AM
To:
Subject: Seeking New Opportunity

I am writing to express my interest in working with your firm to find the right opportunity for the next stage of my career.

With over 17 years of political and agricultural policy experience I am well prepared to excel in my next position. Legislative and regulatory issue management, political action committee management, extensive senior-level equipment industry contacts and personal farming background have given me the knowledge and skillset to be a valuable addition to any organization.

I have a proven history of working with broad internal and external groups to deliver important agricultural industry messages to policy-makers through proactive and positive engagement strategies. For example, my equipment field demonstration series has brought over 110 U.S. Department of Agriculture and Environmental Protection Agency officials out to the field to see modern production agriculture in practice and have in-depth conversations with technical experts.

I look forward to discussing my qualifications with you.

Please find my resume attached.

Sincerely,

Ex. 6

Ex. 6

Ex. 6

Message

From: Tom Davis Ex. 6
Sent: 11/4/2018 2:33:09 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: Nov 13 Roundtable
Attachments: Draft November Agenda.docx

Terrific...looking for your take on what is happening at EPA and any changes since the Administrator change.
Again like last time it would be informal, casual, off the record, no press,
You are free to come over anytime (we meet in the Holeman lounge at Press Club, 13th floor) but we adjourn for afternoon at 5:15 and head for drinks and dinner in Zenger Room, also 13th floor at Press Club. So I would see you speaking arounf 5:30..
Date is Nov 13, 2018
Please tell me the job title you wish me to use for you in the agenda.

Environmental, Health, Safety
& Sustainability Roundtable

November 13-14 2018 Agenda

National Press Club – Holeman Lounge

Washington, DC

Tuesday, November 13, 2018

12:00 pm **Buffet lunch** – Working Lunch & Discussion

Welcome and Self-Introductions
Dan Hutter, Chairman and Moderator

Antitrust Caveat
Frank Friedman, President, Frank Friedman & Associates LLC

12:15 pm **PFSA/PFOS**
Introduction: Annabeth Reitter, Domtar
Peter Grevatt, USEPA

1:00 PM **GRI Update**
Alyson Genovese, Director of Regional Hub, USA & Canada

1:45 pm **Blockchain**
Tejas Bhatt, Senior Director, Walmart Food Safety

3:00 pm **Break**

3:15 pm **Emerging U.S. Environmental Regulatory Issues and the Federal-State Agency Nexus**
Nick Steinke, Principal, Tellevate
Mike Linder, Attorney, Koley Jessen

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4:00 pm **Compliance Innovation Group Update**
Andrew Stewart, Counsel, Sidley Austin and Frank Friedman, Frank Friedman Associates
New Paradigm of Environmental Protection
Scott Fulton, President ELI

5:15 pm **Adjourn to libations and dinner**
Dinner Speaker

Wednesday – November 14, 2018

7:45 am **Breakfast**

8:00 am **Inside NGO Partnerships: Strategy, Impact and Lessons**
Scott Walsh, Independent Consultant

9:00 am **Global Regulatory Update: Changes and Impact**
Maram Salaheldin, Consultant, Tellevate
Joseph Tell, Director, Tellevate

10:00 am **Environment and Social Trends**
Leah Rozin, Principal Sustainability Advisor, ISS Corporate Solutions

11:00am **Adjourn**

FUTURE MEETINGS:
April 11-12, 2019

ED_002480_00056187-00002

Message

From: Amy Harder [amy@axios.com]
Sent: 10/29/2018 10:29:58 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Oil-rich Norway, loved by Trump, tries to go big on climate change

Oil-rich Norway, loved by Trump, tries to go big on climate change

View this email in your browser

http://axios.link/IXrJ

And ICYMI this week:

Scientists, experts allege anti-nuclear bias in UN climate report
University of Chicago release on my role in the AXIOS ON HBO limited news series

Best,
Amy

COLUMN / HARDER LINE

Oil-rich Norway, loved by Trump, tries to go big on climate change

MONGSTAD, Norway — This Nordic nation offers a window into how an economy fueled by oil and natural gas can attempt aggressive action on climate change.

Why it matters: It sounds contradictory, but given that our world has remained 81% dependent upon fossil fuels for the past 30 years, cutting greenhouse gas emissions while using these fuels is probably going to be unavoidable. In two separate upcoming decisions, Norway will show the extent to which it's committed to its climate ambitions and diversifying its wealth, which is largely derived from oil.

The big picture: President Trump has said he likes Norway, though it's not clear why.

- This admiration comes despite the fact that Norway has some socialist policies, most notably its staggering tax rate of 78% on oil and natural gas production.
- The money raised goes into its sovereign wealth fund, the largest in the world at nearly $1 trillion.

- That high tax rate was left out of a White House report issued last week seeking, in part, to debunk the notion that Nordic countries have socialist policies by pointing to their low corporate tax rates.

Driving the news:

- The Norwegian government will decide this autumn whether its sovereign wealth fund will divest from oil and natural gas stocks. If it does, it would boost efforts around the world to urge investors to drop fossil-fuel investments as concerns grow about climate change.
- Norway is also set to decide in the coming years whether to fund what would be one of the world's most ambitious initiatives to capture and store underground carbon dioxide emissions. The technology is technically possible, but prohibitively expensive in most instances.
- If Norway follows through here, it would be a pivotal step toward showing the financial commitment many experts say is needed to address climate change in our fossil-fuel driven world, including commitments laid out in the 2015 Paris climate accord.

Between the lines: Inaction on either of these fronts would raise a difficult prospect: If Norway — rich from its fossil fuels and genuinely ambitious about addressing climate change — doesn't follow through, who would?

The intrigue: One misty October morning, I was on a tour of an industrial site here considered the largest test facility in the world for technologies capturing CO2 emissions, 10 times larger than the biggest one in America. Owned by four European energy companies and the Norwegian government, the facility is now a testing ground for several American companies.

- The Energy Department has this year awarded funding for five U.S. companies to do work here, for a total of roughly $35 million.
- This type of technology is crucial "so that the United States and the world can use fossil fuels and reduce greenhouse gas emissions," said

Steve Winberg, assistant secretary for fossil energy at the Energy Department, who visited Norway this summer.

Indeed, technology capturing CO2 emissions is vital for oil and natural gas to thrive in a world addressing climate change. Norway's actions are as much for its own economic survival as they are for the planet.

- Norway's oil and natural gas sector accounts for almost 40% of its export revenues and more than 15% of the country's gross domestic product.
- That economic backdrop has the government considering divesting from oil and gas stocks in its sovereign wealth fund.
- Norwegian officials say its decision isn't related to climate change, but that's a distinction without a difference. Concerns are growing about being too dependent upon oil and gas precisely because the world is looking to curb emissions from fossil fuels.

"We are so exposed to oil and gas because a large part of our economy is based on oil and gas activities," Ingvil Smines Tybring-Gjedde, State Secretary of Norway's Ministry of Petroleum and Energy, said in an interview after a recent dinner event in Oslo. "It's a huge misunderstanding. We did not want to withdraw from oil and gas because it's oil and gas. It's to be not exposed as much to oil and gas."

What's next: After the imminent decision about the sovereign wealth fund, the focus will turn to whether the carbon capturing project goes through.

That €1.6 billion proposal includes capturing emissions at two separate facilities — a cement manufacturer and a power plant that burns garbage for electricity — and then storing the CO2 under the seafloor.

The catch, as Tybring-Gjedde said at the Oslo event, is that the Norwegian government says it can't fund the project on its own.
"It is necessary to do something about the climate that we are looking at,"

Tybring-Gjedde said. “However, we need European partners because it will be difficult to carry the financial burden of this project on our own.”

Amy
energy reporter, Axios
202.906.9629
@AmyAHarder

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Message

From: The Well News [press@thewellnews.com]
Sent: 11/10/2018 3:42:25 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Election Debrief: Unpacking Tuesday's Results

Election Debrief: Unpacking Tuesday's Results

Straight from The Well

Saturday, November 10, 2018

REDISTRICTING REFORM

How Tuesday's Election Changed the Map

Elections matter, but so does timing. Flying under the radar, redistricting took a back seat to candidate races across the country, particularly in key states where the repercussions of the midterm elections will be felt for the next decade. Democrats were largely shut out of the process in 2010, a crucial year before the census reapportionment and mapmaking began at the state level.

Prior to the 2010 election, Democrats maintained control of 27 state legislatures, and an additional 13 were split with Republicans. Following the election, Republicans won more than 700 state legislative seats and flipped control of 11 key statehouses. Without a voice at the table during 2012 partisan redistricting discussions, many Democrats found themselves drawn off the map. Read more.

BLUE TIDE RISES IN THE STATES

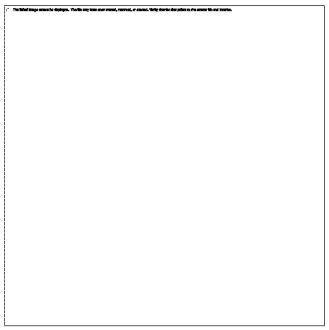
With 8 Lt. Governor Pickups

In a 2018 election with plenty of firsts, Democratic Lt. Governors picked up eight seats in this year's elections, bringing the total from 14 to 22. These historic gains mean Democrats in these seats now represent a majority of the American population, including two U.S. territories. Read more.

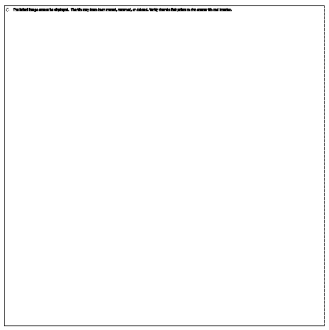
NEW MEMBERS TO WATCH - Part II

United States House of Representatives

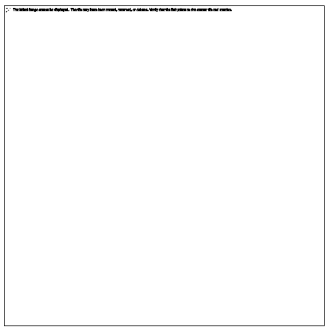
CA-25:
Katie Hill (D)



GA-06:
Lucy McBath (D)

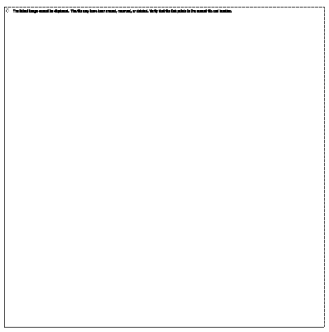


MN-01:
Jim Hagedorn (R)



NC-09:
Mike Harris (R)

NM-02:
Xochitl Torres Small (D)



WA-08:
Kim Schrier (D)

THE MIDTERMS POINT US TOWARD A MORE DEMOCRATIC FUTURE: FOUR LESSONS FROM THE ELECTIONS

Commentary by Will Marshall

Although not quite the stinging rebuke that Democrats and Never-Trump Republicans were hoping for, the midterm elections show that President Trump's strategy of maximum polarization has reached the point of diminishing political returns.

Trump predictably claimed victory, but in the real world Democrats won the popular vote again, by more than seven percentage points, captured the House of Representatives and added seven more governors, including one in the GOP bastion of Kansas. What's more, the party generally prevailed not by swerving left, but by appealing to moderate and even conservative suburbanites, especially across the Midwest, who are repelled by Trump's dark mastery of tribal politics. Read more.

KEEP WATCHING

Outcomes Still Undetermined

Note: In both Arizona and Florida they are continuing to count each legal ballot; neither of these have progressed to a recount yet.

ARIZONA SENATE

Arizona Senate:
Kyrsten Sinema (D)

Arizona Senate:
Martha McSally (R)

As 81% of precincts are still reporting, there are still approximately 500,000 ballots to be counted in this open race between Kyrsten Sinema (D) and Martha McSally (R). Sinema is leading McSally by 20,203 votes as of Friday evening. We expect the final results of that count next week.

FLORIDA SENATE

Bill Nelson (D)
Incumbent US Senator

Rick Scott (R)
Governor of Florida

As of 8:28 am ET on November 9, Governor Rick Scott leads with 4,094,927 votes over the incumbent Senator Bill Nelson's tallied 4,079,835 votes.

In Florida, an automatic recount is triggered when the margin is .5% or less. A hand recount is triggered when the margin is .25% or less.

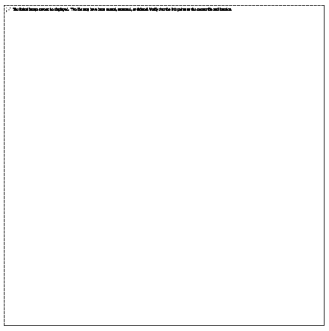
In addition to this senate race, it appears that two additional statewide races, including the governorship, and three statehouse races may be destined for a recount.

MISSISSIPPI SENATE (special)

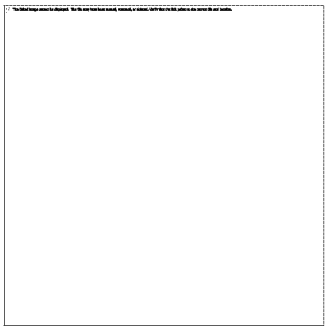
Mike Espy (D)

Cindy Hyde-Smith (R)

Former US Secretary of Agriculture



Incumbent US Senator



Incumbent Cindy Hyde-Smith was appointed by Republican Governor Phil Bryant to fill this seat vacancy created by Senator Cochran's resignation. The election on November 6 was to elect who will serve the remainder of Cochran's term, which expires in January 2021.

In accordance with Mississippi law, a nonpartisan jungle primary (party affiliations are not printed on the ballot) took place on the same day as the regularly scheduled US Senate election. This election will be resolved in a runoff on November 27 because no candidate gained a simple majority in the November 6 vote.

IN THE NEWS

- House Dems in New Seats of Power Will Steer Health Policy, Attack Drug Prices
  By Emmarie Huetteman
- America's Averaging Almost a Mass Shooting a Day in 2018
  By Peter Sblendorio
- Whitaker Doesn't Plan to Recuse Himself From Mueller Probe, Source Says
  By Chris Strohm
- Too Few Doctors and Nurses for Veterans in Some Areas

  By Tim Henderson
- This Is One of the Hardest Places to Vote in America
  By Matt Vasilogambros

HOUSE LEADERSHIP RACES

As It Currently Stands

House Republicans will hold leadership elections on Wednesday, November 14 while Democrats are set to select their nominee for House Speaker on Wednesday, November 28. A final determining vote will happen in January on the House floor.

SPEAKER:
Nancy Pelosi (D-CA)
MAJORITY LEADER:
Steny Hoyer (D-MD)
MAJORITY WHIP:
Diana DeGette (D-CO)
Jim Clyburn (D-SC)
DEM. CAUCUS CHAIR:
Barbara Lee (D-CA)
Hakeem Jeffries (D-NY)
ASST. LEADER:
Ben Ray Lujan (D-NM)
David Cicilline (D-RI)
DCCC CHAIR:
Cheri Bustos (D-IL)
Denny Heck (D-WA)
Suzan DelBene (D-WA)

MINORITY LEADER:
Jim Jordan (R-OH)
Kevin McCarthy (R-CA)
MINORITY WHIP:
Steve Scalise (R-LA)
REP. CONFERENCE CHAIR:
Liz Cheney (R-WY)

WEEKEND READ

A Poliolike Illness Is on the Rise Again. But Why?

At first, it seemed like just a bad cold, with a fever that came and went. Then one day, when Scarlett Camburn woke from her nap, the Havertown, Pa., toddler was unable to move her right arm. Panicked, parents Andrea and Chris Camburn rushed the little girl to an urgent care center in King of Prussia operated by Children's Hospital of Philadelphia, and from there to the hospital's emergency room in West Philadelphia. X-rays showed that Scarlett, a few days shy of her second birthday in August 2016, had no broken bones. But an MRI on a future visit revealed an alarming sign: damage to her spinal cord. Read more.

STAY TUNED

Other Race Updates Since Wednesday

US Senate

- Montana: incumbent Jon Tester (D) won re-election

US House

- AZ-01: incumbent Tom O'Halleran (D) won re-election
- CA-10: challenger Josh Harder (D) currently leads
- CA-39: Young Kim (R) currently leads
- CA-45: incumbent Mimi Walters (R) currently leads
- CA-48: challenger Harley Rouda (D) currently leads
- CA-49: challenger Mike Levin (D) currently leads
- GA-07: incumbent Rob Woodall (R) currently leads
- ME-02: neither candidate has received the requisite 50% of the vote; the secretary of state has confirmed that Maine will conduct an automatic runoff using its new ranked choice voting tabulation process. Read more.
- MT-AL: incumbent Greg Gianforte (R) won re-election
- NJ-03: challenger Andy Kim (D) currently leads
- UT-04: challenger McAdams (D) currently leads
- WA-03: incumbent Herrera Beutler (R) won re-election

CARTOONS OF THE WEEK

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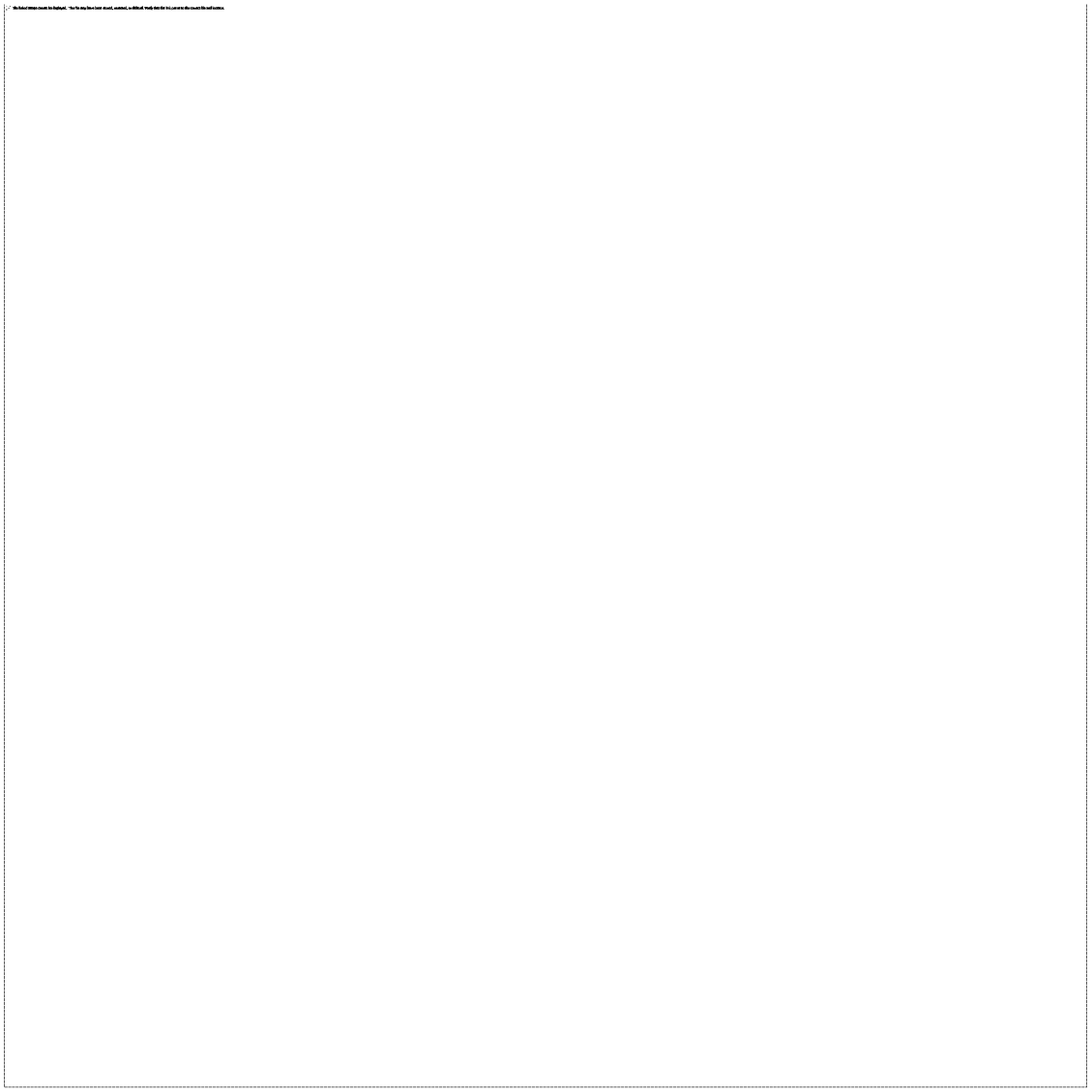

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Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 10/23/2018 9:37:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: CARB response

Thanks – it seems like it may not be terribly responsive, esp on the NHTSA side, but let me get back to you.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 23, 2018 4:57 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: CARB response

I've not read these yet, but I wanted to pass along the answers to OAR's response. Part of the process involved information from NHTSA as well, so this should be as full as possible.

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 10/16/2018 2:03:40 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Next Week: Invitation Small Biz Federal Procurement & Tech Plus Expo

Next Week: Invitation Small Biz Federal Procurement & Tech Plus Expo

Defense Tech Expos presents:

Special Invitation

Federal Government Small Business Procurement and Technology Plus Expo

Wednesday, October 24th, 2018

Free to attend for Government!

The hours are from 9 a.m. to 2 p.m. Bring coworkers!

Free table for Government OSDBUs and Small Business Program Managers!

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next to FEMA

Congressional Ballroom

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More than 35 exhibitors will demonstrate the latest in energy solutions, cloud technologies, cyber security, Big Data, solar power, disaster recovery, communication technologies, systems integration, wireless, 5G, manufacturers, Hyper Convergence, blockchain, AI. cell phones, greening, network solutions, construction, defense and Homeland Security equipment, engineering, architecture, construction, information technology products, COOP, training, Storage solutions, office automation products, data management, audio and visual equipment, hardware and software, healthcare, hospital applications, medical, software. furniture, office supplies, hospitality and So Much More.

Who will be there?

Most of the Vendors are Small Businesses: 8 (a)'s, Small and Disadvantaged Businesses,

Small and Woman Owned Businesses, Service Disabled Veteran Owned Businesses, Veteran Owned,

Native American Owned, and HUBZones). Some large manufacturers too.

Who should attend?

All Government personnel Everyone, especially: DoD. Civilians, Warfighters, OSDBUs, SADBUs, Small Business Program staff, Program

Managers, Project Managers, Engineers, Techs, Scientists, Security, Contracting Officers, CTOs, CIOs, CXOs, CISSPs, Buyers, purchase card holders, Economists, clerks,

Procurement, IT, Hospital, Medical, Labs, Public Affairs, Public works, SBLOs, PTAC/PTAP, everyone, etc. .

FREE of CHARGE to attend for Government!

Refreshments!

. Demos!

. Giveaways!

Education and Information!

What: Federal Small Business Procurement and Technology Plus Expo

Where: Holiday Inn Capitol, Congressional Ballroom next to FEMA

550 C Street, SW, Washington, DC 20024

near L'Enfant Metro and Federal Center Metro station

www.wmata.com

When: 10.24.18

Mark your calendar

Time: 9:00 AM - 2:00 PM

Larry Rinaldo

Defense Tech Expos

More information is available from 703-344-8771

Questions/Please RSVP to: LRinaldo@cox.ne t

Bring associates!

Free table for Government OSDBUs and Small Business Program Managers!

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Message

From: Michael K. Henry [mhenry@alpinegroup.com]
Sent: 10/18/2018 11:53:52 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Tomorrow

Hey! I've been summoned up to Columbus to start hearing prep for a CEO and can't join tomorrow's meeting with Andy.

One of my colleagues, Jason Schendle, will make sure all goes well. I just wanted to give you a heads up and to say thank you for your help locking it down, since I won't be there to say thanks in person.

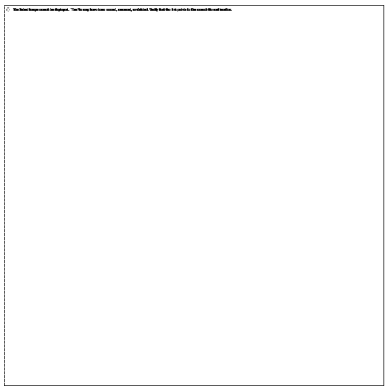
Lets catch up soon!!

Mike

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/27/2018 4:12:32 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Latest campaign news, Lin-Manuel Miranda and local leaders to watch

Latest campaign news, Lin-Manuel Miranda and local leaders to watch



PRESENTED BY IRAQ AND AFGHANISTAN VETERANS OF AMERICA (IAVA)

Straight from The Well

Saturday, October 27, 2018

IN BRIEF MOMENT OF BIPARTISANSHIP, TRUMP SIGNS OPIOID BILL

SUPPORT for Patients and Communities Act

As Members of Congress continue to battle it out with just a little over a week to go before the midterm elections, there was a rare moment of bipartisan accomplishment back in Washington. President Trump signed into law H.R.6, the "SUPPORT for Patients and Communities Act," legislation that takes significant steps to address the opioid crisis gripping the country. The bill was the result of bipartisan cooperation among members of both the House and Senate. BUT, the bipartisanship didn't last long…after praising the law, Energy and Commerce Ranking Member Frank Pallone, Jr. (D-NJ) issued a stern rebuke of his Republican colleagues, saying, ""While this opioid package builds on our prior work to respond to the opioid crisis, we cannot forget the tremendous harm Republican policies would inflict on the same people this package seeks to help."

On the Trail

Countdown to the Midterms

HOYER HITS THE TRAIL
This cycle, Hoyer is everywhere. The House Democratic Whip, who is popular among candidates and voters in districts across the country, has traveled to 131 districts in 25 states, campaigned for 93 candidates and 38 incumbents, and raised or contributed $10.1 million. Whew!

PPI ADDRESSES THE FUTURE OF HEALTH CARE IN NEW REPORT

Progressives and health care: What comes next?

On the cusp of the midterm elections, the Progressive Policy Institute is tackling health care. In issuing the report, the group argues Democrats have an opportunity to "hold Republicans accountable for undermining the individual health insurance market, putting Americans with preexisting conditions at risk of losing coverage." The issue of preexisting conditions has become a major point of contention in races across the country, as many Republican candidates struggle to defend their votes for a wholesale repeal of the Affordable Care Act. Read more.

Candidate Profile: Antonio Delgado

New York's 19th Congressional District

Born and raised in Schenectady, Antonio is a native of Upstate New York. His parents worked for General Electric and benefited from a better regional economy. They worked hard to pursue the American Dream of building a better future for Antonio and his little brother.

View Profile

About Iraq and Afghanistan Veterans of America (IAVA)

MISSION STATEMENT

Iraq and Afghanistan Veterans of America (IAVA) is the premier veterans advocacy and support organization on the planet. Every day, we fight for veterans. Hard. We are the tip-of-the spear non-profit engine of impact that connects, unites and empowers over 400,000 veterans and allies nationwide.

MIDTERMS 2018

Polling and Ads

NEW AD: The Republican Governors Association released a new TV ad in the Ohio governor's race on Thursday criticizing Democrat Richard Condray's record.

NEW POLL: New York Times and Siena College released a poll on Wednesday showing NM-02 in an exact tie. Center Forward Committee released an ad this week touting Xochitl Torres Small as New Mexico's "Best Shot."

NEW POLL: Poll released on Tuesday by Fabrizio, Lee & Associates for the NRSC shows Attorney General Patrick Morrisey leading Senator Joe Manchin in West Virginia's senate race.

BATTLEGROUNDS: Democratic candidates are looking to win in Republican leaning districts across the country this year. What ads are some of the most competitive candidates running this week? Check them out below!

Brendan Kelly - Terra

Paul Davis - Common Sense People

Dan McCready - Keep Lying About Me

Clarke Tucker - Basic Decency

Kathy Manning - Respect Hard Work

Jeff Van Drew - Two Doors

Anthony Brindisi - Got Something Done

Abigail Spanberger - Superhero

IN THE NEWS

- Who Is Cesar Sayoc Jr., the Man Arrested in Plot to Mail Bombs to Trump Critics?
  By David Schutz, Dan Sweeney, and Paula Mcmahon
- Nationalism is Not Patriotism: Donald Trump's Nationalism Oscillates Between Hate and Patriotism
  By Jim Kessler in USA Today
- Trump Tax Cuts Will Wait Until 2019 if the GOP is Still in Charge, Says Brady
  By Niels Lesniewski
- Why a 'Strong, Charismatic' Leader Is Not the Solution to America's Tumultuous Times
  By Gen. Stanley McChrystal in TIME
- Supreme Court Weighs Whether to Hear Its First Abortion-Related Case Since Kavanaugh Joined the Bench

By David G. Savage

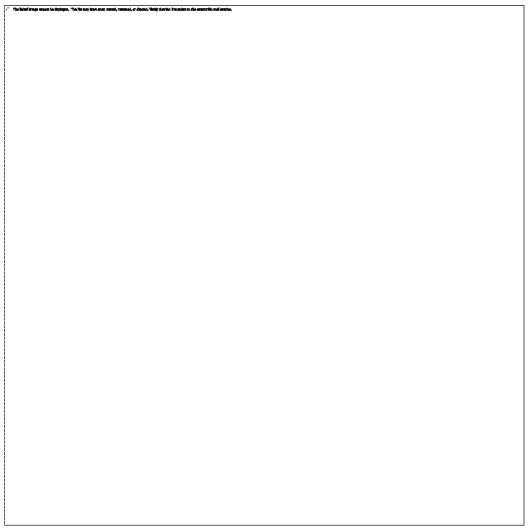
STAND WITH PARKLAND PRESIDENT TONY MONTALTO DISCUSSES SCHOOL SAFETY AHEAD OF MIDTERM ELECTIONS

Tony Montalto, President of Stand with Parkland, a school safety advocacy organization comprised of all 17 families of the victims of the Parkland shooting, discussed school safety this week ahead of the upcoming midterm elections. Tony is the father of Gina Montalto, one of the students who was killed in the shooting.

"Our group has come together, even through diversity, to advocate for safer schools…Our mission is to bring people together to start a conversation from everyone who is looking at the subject and find compromise and consensus and then bring those compromise positions to our political leaders to make either policy or to enact laws to keep the students and the teachers safe." Watch the full interview.

WEEKEND READ

Lin-Manuel Miranda is Trying to Revive Puerto Rico's Devastated Coffee Industry



Taking a break from conquering Broadway, making movies and writing books, Lin-Manuel Miranda tromped up a muddy slope in Puerto Rico's highlands on Wednesday assessing his next challenge: helping revive the island's ailing coffee industry. Read more.

LOCAL LEADERS TO WATCH

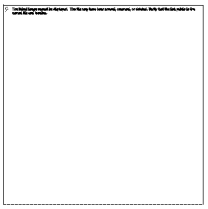
U.S. Senator Mark Warner (D-VA) and former Delaware Governor Jack Markell issued a stark reminder this week that all politics is local. In a statement announcing the NewDEAL's Fall Class of Leaders, the duo said in a joint statement, "While much of the political world is focused on how the balance of power in D.C. will shift in a couple of weeks, we must also remember the tremendous impact that innovative state and local officials have on enacting policies that meet the demands of a changing world and expand opportunity for all."

The Fall Class of Leaders

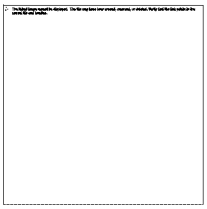
Chaz Beasley
State Representative
Charlotte, NC

Wesley Bishop
State Senator
New Orleans, LA

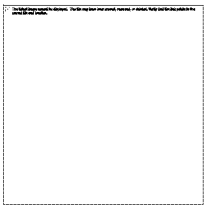
John Cranley
Mayor
Cincinnati, OH



Justin Fairfax
Lieutenant Governor
Virginia

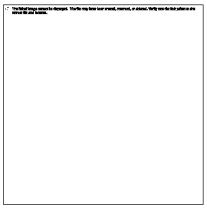


Amir Farokhi
City Councilmember
Atlanta, GA

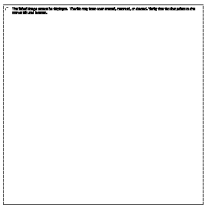


Margaret Good
State Representative
Sarasota, FL

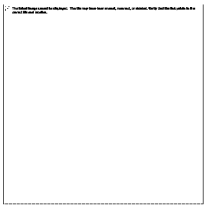
Derek Green
City Council Member
Philadelphia, PA



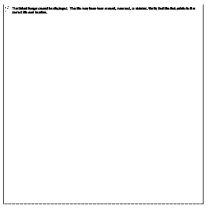
Nirva LaFortune
City Councilmember
Providence, RI



Daniele Monroe-Moreno
State Assemblymember
North Las Vegas, NV

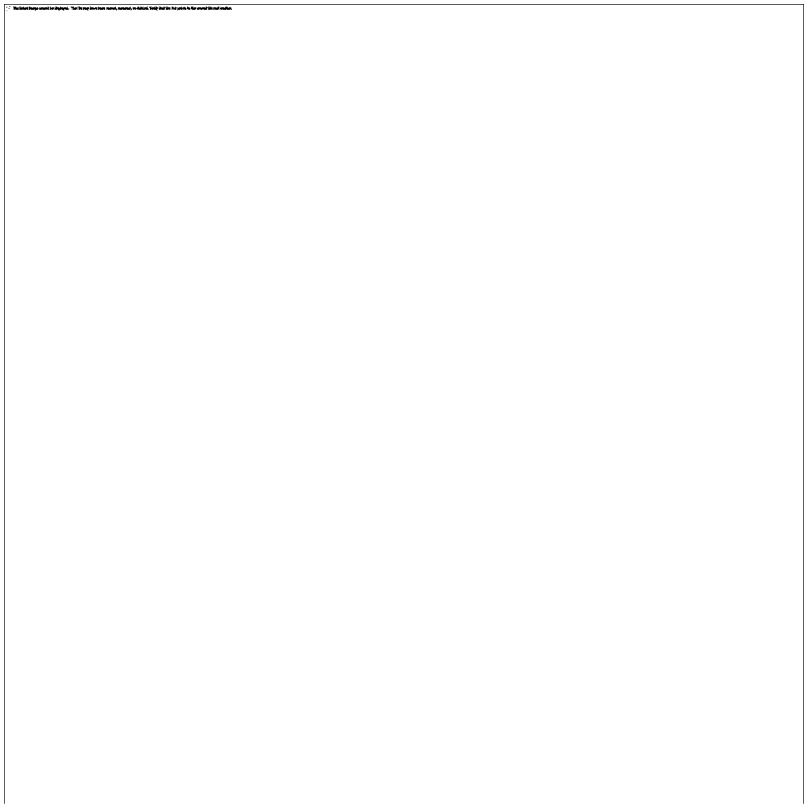


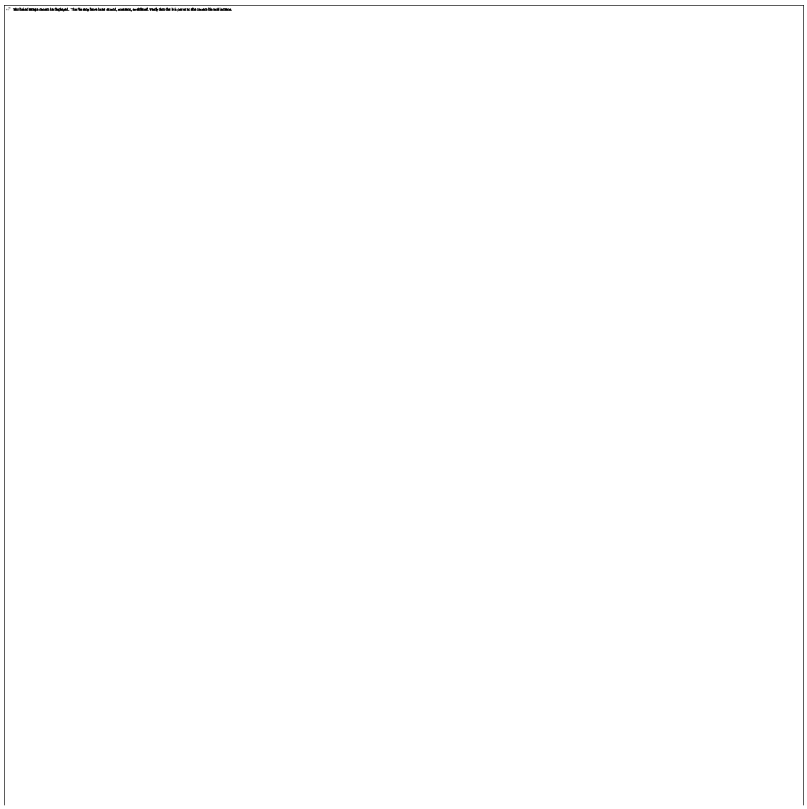
Laura Register
School Board Member
Grady County, GA

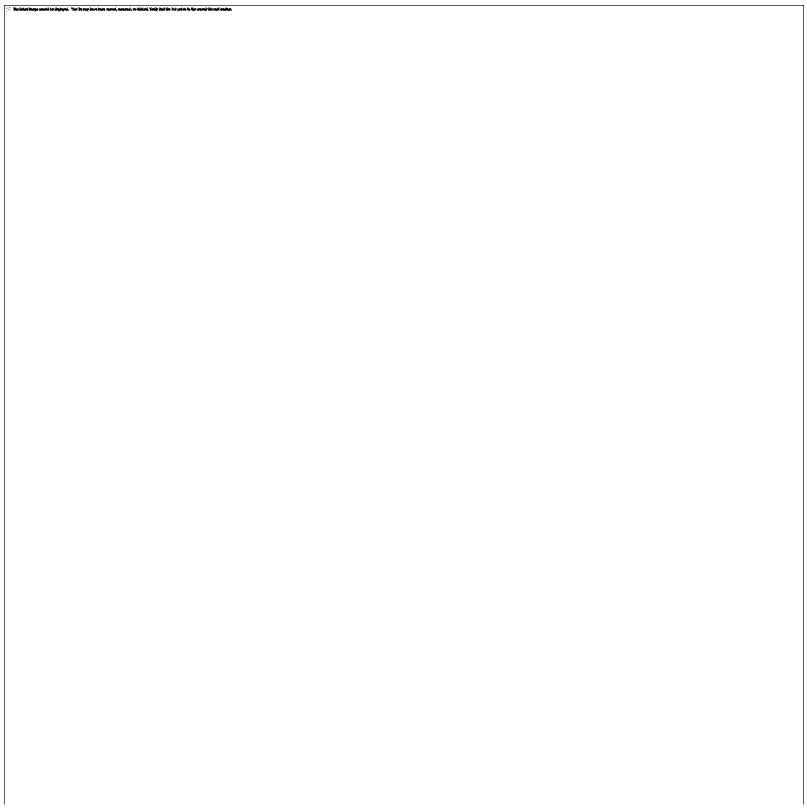


Kathy Tran
State Delegate
Fairfax, VA

CARTOONS OF THE WEEK







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Message

From: Jim Massie [jmassie@massiepartners.com]
Sent: 10/23/2018 2:49:54 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Morning

Its Bruce Heine and another Magellan colleague. They wanted some advice about emissions from liquid terminal operations and how some of the information being collected today is inaccurate. This is an issue that the previous administration started without any input from the terminal operators and it can provide false information to EPA. I thought that we should ask you for some advice because I suspect we aren't the only folks concerned and that any efforts to address this issue needs to be fully thought through.

Thanks. Sorry I'm like gum on your shoe. Suggest what day and time would be best and I'll coordinate with the Magellan folks.

JIm

-----Original Message-----
From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 23, 2018 10:37 AM
To: Jim Massie <jmassie@massiepartners.com>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: RE: Morning

That's fine. I'll be in DC. Who is it and what's the issue?

-----Original Message-----
From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Tuesday, October 23, 2018 9:39 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Morning

Sorry to bother you. One of my clients headquartered in Tulsa was hoping to meet with you either November 6 or 7.

Hope your good. Thanks.

Jim Massie
202-841-8037

Sent from my iPad

Message

From: Ex. 6
Sent: 10/21/2018 12:49:31 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re:

Hi Ryan,

Yes, let's chat tomorrow. My number is Ex. 6 Just give me a call at your convenience.

Thanks!
Ex. 6

On Fri, Oct 19, 2018 at 6:31 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:
Ex. 6 would you be interested in talking Monday about joining EPA?

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

Message

From: Thompson, Brian [Thompson.Brian@epa.gov]
Sent: 10/29/2018 10:42:44 PM
To: mfox@crtribal.com
CC: Ross, David P [ross.davidp@epa.gov]; Wright, Felicia [Wright.Felicia@epa.gov]; Scott, Jeff [Scott.Jeff@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Electronic copy of response letter to Chairman Mathiesen
Attachments: R9ltrtoChickenRanchChair.102918.pdf

Ms. Fox,

Attached is an electronic copy of the response letter we mailed today to Chairman Mathiesen regarding tribal consultation on California State Water Board amendments to the Water Quality Control Plan for the San Francisco Bay-Delta. Please forward this electronic copy to Chairman Mathiesen and Stephanie Suess, Community & Resources Development Director. Under separate cover, we are sending an electronic copy to federal Congressional members identified in your letter.

Thank you,
Brian Thompson
U.S. EPA, Region 9
Water Division
Watersheds Section
415-972-3203

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

OFFICE OF THE
REGIONAL ADMINISTRATOR

The Honorable Lloyd Mathiesen
Chairman
Chicken Ranch Rancheria of Me-Wuk Indians of California
9195 Tribal Way
Jamestown, CA 95327

OCT 29 2018

Dear Chairman Mathiesen:

Thank you for your correspondence dated September 6, 2018 to Acting Administrator Wheeler regarding the California State Water Resources Control Board (State Water Board) proposed amendments to the Water Quality Control Plan (WQCP) for the San Francisco Bay-Delta. I appreciate your concern in this matter.

The Clean Water Act directs states and EPA to conduct distinct and separate actions in the establishment of water quality standards. States are to develop and adopt water quality standards, whereas EPA is to review and approve or disapprove those standards, *once adopted*.

At this point, the State has not acted upon the proposed amendments, so EPA currently has no action before us. The State Water Board will convene on November 7, 2018 to consider adoption of the WQCP amendments. After the State Water Board adopts and submits the amendments to EPA for review, EPA will offer consultation and coordination with you and other federally recognized tribes that may be impacted by the Agency decision. This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (www.epa.gov/tribal/consultation/consult-policy.htm). EPA will share the opportunity with you directly via a letter, and also will post notice through EPA's Tribal Portal at http://www.epa.gov/tribal/consultation.

Again, thank you for your correspondence, and we look forward to engaging with you on this topic.

Sincerely,

Michael Stoker

Michael Stoker
Regional Administrator

Printed on Recycled Paper

cc: Senator Diane Feinstein
Congressman Tom McClintock
Congressman Jeff Denham
David Ross, Office of Water, U.S. EPA
Felicia Wright, American Indian Environmental Office, U.S. EPA
Jeff Scott, Land Division, Region 9, U.S. EPA
Ryan Jackson, Chief of Staff to the Administrator, U.S. EPA
Stephanie Suess, Chicken Ranch Rancheria of Me-Wuk Indians of California

Message

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/25/2019 10:33:44 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Caron, Christopher [Ccaron@steptoe.com]
Subject: Re: Per Our Call: Language attached.....

Chris,

We would be happy to meet with you on the issue.

Regards,

Lee

Sent from my iPhone

On Mar 25, 2019, at 6:31 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Chris, I don't know enough about this language and what OW may be doing to implement it, so I would like to connect you with our Office of Water. My involvement in this to get up to speed on what we are even talking about and providing information isn't going to be as good as working with OW. I've cc'd Lee Forsgren to help explain what EPA is doing.
>
> ---
>
> **From:** Caron, Christopher [mailto:Ccaron@steptoe.com]
> **Sent:** Friday, March 15, 2019 6:24 PM
> **To:** Jackson, Ryan <jackson.ryan@epa.gov>
> **Subject:** RE: Per Our Call: Language attached.....
>
> I appreciate the update, Ryan.
>
> I noticed that you mention the Aquifer Storage and Recovery (ASR) injection approach. Enhanced Aquifer Recharge (EAR) is a **non-injection** approach to recharging aquifers through passive groundwater filtration. That's why we put the language under the SSWR Account for three years. I am attaching a backgrounder on EAR for your review.
>
> What we were trying to achieve with the language was development of a set of best practices for EAR and to get EPA to coordinate with USGS. Because EAR is a passive groundwater, non-injection approach, to aquifer recharge, we thought by leveraging USGS's extensive stream-gauging program, we could develop a good best practices approach through Kerr.
>
> My sense is that Cincinnati isn't interested in this, though Kerr *already does* some research in this area and OAR mentions it specifically in Kerr briefs. (See: https://bit.ly/2F55x2N)
>
> I am happy to provide more information or speak with whomever you think I should. We genuinely appreciate the assistance in resolving this.
>
> Chris
>
> ---
>
> **From:** Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> **Sent:** Friday, March 15, 2019 5:40 PM
> **To:** Caron, Christopher
> **Subject:** RE: Per Our Call: Language attached.....

So far I have simply been informed that Enhanced Aquifer Recharge is an eligible project activity under the DWSRF, and states have funded projects for this. Where an EAR effort involves injecting water into an aquifer, it is an UIC Class V Aquifer Storage and Recovery well. EPA has worked with Florida and Colorado to support ASR projects in those states. We have also worked with the Ground Water Protection Council and other stakeholder organizations to help drinking water utilities creatively enhance their water supply through EAR. I hope to get more background on this.

From: Caron, Christopher [mailto:Ccaron@steptoe.com]
Sent: Friday, March 15, 2019 12:24 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Per Our Call: Language attached.....

Ryan:

I just wanted to reach out and see if you heard anything back on this language?

I appreciate your willingness to help get an answer....

Chris

Christopher Caron
Director
Steptoe
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

From: Caron, Christopher
Sent: Wednesday, March 06, 2019 4:37 PM
To: jackson.ryan@epa.gov
Subject: Per Our Call: Language attached.....

Ryan:

Thanks for the time. Attached is the language.

We are trying to determine the status of what EPA is doing on this.

Again, thank you for the time.

Chris

Christopher Caron
Director
Steptoe

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1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 10/22/2018 1:33:03 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: This Week: Invitation Small Biz Federal Procurement & Tech Plus Expo

This Week: Invitation Small Biz Federal Procurement & Tech Plus Expo

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Larry Rinaldo

Defense Tech Expos

More information is available from 703-344-8771

Questions/Please RSVP to: LRinaldo@cox.ne t

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Message

From: Caron, Christopher [Ccaron@steptoe.com]
Sent: 3/25/2019 10:33:13 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: RE: Per Our Call: Language attached.....

Thank you so much, Ryan. That's more than I could ask for. It's very helpful. I genuinely appreciate it.

Chris

Christopher Caron
Director
Steptoe
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, March 25, 2019 6:31 PM
To: Caron, Christopher
Cc: Forsgren, Lee
Subject: RE: Per Our Call: Language attached.....

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Director
Steptoe
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

Message

From: Environmental Law360 [news-q2@law360.com]
Sent: 11/2/2018 7:26:14 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] NY, Coalition Slam EPA's Effort To Replace Clean Power Plan

ENVIRONMENTAL

LexisNexis launches Law360's Access To Justice Newswire

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Friday, November 2, 2018

TOP NEWS

NY, Coalition Slam EPA's Effort To Replace Clean Power Plan

New York led a group of 26 states and local governments that commented on the U.S. Environmental Protection Agency's proposal to replace the Obama-era Clean Power Plan regulating power plants' carbon emissions with a new rule, arguing the move was wrongheaded and harmful. Read full article »

No Trump Bailout Needed To Keep Grid Stable, PJM Says

PJM Interconnection, the nation's largest regional grid operator, said Thursday that the imminent retirement of coal and nuclear power plants within its territory won't harm future grid reliability and that efforts by the Trump administration to keep those and other plants open aren't needed. Read full article »

Donziger Slams Chevron Contempt Bid In $9.5B Ecuador Case

Attorney Steven Donziger railed against Chevron Corp.'s motion to hold him in contempt for allegedly defying a judge's injunction against his profiting from a $9.5 billion settlement in a case in Ecuador, saying the company was "entirely unhinged" and engaging in a campaign to "demonize" him. Read full article »

LITIGATION

Feds Say Individual Gold King Mine Claims Must Go

The U.S. Department of Justice asked a New Mexico federal court Thursday to throw out allegations made by individuals in the Southwest and members of the Navajo Nation related to the 2015 Gold King Mine spill, arguing the

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government is immune from the Federal Tort Claims Act claims. Read full article »

Tribe Presses To Beef Up Michigan Mine Permit Suit

The Menominee Indian Tribe of Wisconsin told a federal judge Thursday that the U.S. Environmental Protection Agency must face new claims in the tribe's suit over a Michigan state permit for a proposed mine, saying the agency's decision to withdraw its objections to the permit can be challenged in court. Read full article »

LEGAL INDUSTRY

BigLaw Joins Corp. Giants Against Trump Trans-Rights Attack

More than 50 major companies, including Amazon, Bank of America and Pepsi, as well as such large law firms as Hogan Lovells LLP and Ropes & Gray LLP, signed a statement issued Thursday against reported plans by President Donald Trump to roll back legal protections for transgender people. Read full article »

Burr & Forman Boosts Presence In Carolinas With McNair Buy

Burr & Forman LLP will dramatically expand its footprint in the southeastern U.S. by absorbing Carolinas-based McNair Law Firm PA in a tie-up that will become effective Jan. 1, the firms announced Thursday. Read full article »

Federal Litigation Funding Rule Generates Support, Confusion

There is growing support among federal judges who oversee multidistrict litigations for a new rule to address the growing involvement of third-party case investors, members of a judicial rules committee said Thursday. Read full article »

Broward Health Axes GC, Claiming She Perpetuated Instability

With Broward Health still struggling to right the ship after three years under a corporate integrity agreement with the federal government, the South Florida hospital system's board fired its general counsel Wednesday following criticism of spending on outside attorneys, unfinished physician contracts, and a culture of "fear and intimidation." Read full article »

Law360's Weekly Verdict: Legal Lions & Lambs

Colorado marijuana litigator Red Law LLC topped this week's legal lions list after a federal jury sided with its cannabis cultivation business client in a first-of-its-kind Racketeer Influenced and Corrupt Organizations Act suit, while New York attorney Richard Liebowitz ended up on the legal lambs list after a judge refused to alter a ruling that labeled him a "known copyright troll." Read full article »

Law360 Names Attys Who Moved Up The Firm Ranks In Q3

A promotion to partner or election to practice group chair means lots of well-deserved recognition within a firm and in the larger legal community. Law360 reveals the list of attorneys whose commitment to excellence earned them highly coveted spots in the law firm leadership ranks. Find out if your old legal friends — or rivals — moved up in the third quarter of the year. Read full article »

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New York, New York

Legal Administrative Assistant - College Graduate
Filcro Legal
New York, New York

Compliance and Government Investigations Associate
Bass Berry & Sims
Washington, District of Columbia

Mid-Level Environmental Associate – Seattle office
Beveridge & Diamond, P.C.
Seattle, Washington

Matrimonial Litigation Director
Law Offices of Jeffery M. Leving, Ltd.
Chicago, Illinois

Patent Attorneys
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U.S. Senate Committee on Energy and Natural Resources

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Message

From: Bond, Alexander [ABond@eei.org]
Sent: 10/31/2018 8:16:17 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Wehrum, Bill [Wehrum.Bill@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Tsirigotis, Peter [Tsirigotis.Peter@epa.gov]; Hutson, Nick [Hutson.Nick@epa.gov]
Subject: EEI Comments on Affordable Clean Energy Rule
Attachments: AffordableCleanEnergyRule_EEIComments_EPA-HQ-OAR-2017-0355.pdf; 111d-ACErule_EEIComments_Appendix A.pdf; 111d-ACErule_EEIComments_Appendix B.pdf

The Edison Electric Institute (EEI) appreciates the opportunity to provide the attached comments to the U.S. Environmental Protection Agency (EPA) regarding the proposed Affordable Clean Energy (ACE) rule. 83 *Fed. Reg*. 44,746 (Aug. 31, 2018). EEI is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for about 220 million Americans and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States.

EEI's comments focus on the power sector's continued transition to cleaner sources of energy, and the necessity, both from a legal and operational perspective, that any final section 111(d) guidelines take into account the ongoing clean energy transition by providing states and sources with significant flexibility when determining compliance measures. EEI members are committed to this customer-focused transition, investing significant capital in the energy grid to make it smarter, cleaner, more dynamic, more flexible and more secure in order to integrate additional distributed energy resources and deliver a balanced mix of resources to customers.

EPA must provide states with flexibility in establishing compliance plans with any final section 111(d) guidelines in order to facilitate the clean energy transition, and should encourage states to use whatever flexibilities best address state and local technical and operational factors. If you have any questions about these comments, please contact Alex Bond (abond@eei.org; 202-508-5523) or Eric Holdsworth (eholdsworth@eei.org; 202-508-5103).

Thanks!

--
Alex Bond
Associate General Counsel, Energy & Environment
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
202-508-5523
www.eei.org

Follow EEI on Twitter, Facebook, and YouTube.

Edison Electric INSTITUTE

EEI Member Company GHG Reduction Goals (10-17-18)

COMPANY	GOAL
AEP (February 2018)	• 60% below 2000 levels by 2030 • 80% below 2000 levels by 2050
AES (April 2018)	• Reduce carbon intensity 50% from 2016 to 2030
Alliant (August 2018)	• 40% below 2005 by 2030 • 80% below 2005 by 2050
Ameren (September 2017)	• 35% below 2005 levels by 2030 • 50% below 2005 levels by 2040 • 80% below 2005 levels by 2050
AVANGRID (2016)	• Reduce CO_2 intensity 25% below 2015 levels by 2020 • 100% carbon neutral by 2035
CMS Energy (February 2018)	• 80% by 2040
Dominion (March 2018)	• Reduce carbon intensity 50% below 2000 levels by 2030
DTE Energy (May 2017)	• 30% below 2005 levels by the early 2020s • 45% below 2005 levels by 2030 • 75% below 2005 levels by 2040 • More than 80% below 2005 levels by 2050
Duke Energy (March 2017)	• 40% below 2005 levels by 2030
Entergy	• 20% below 2000 levels through 2020
Exelon # (2018)	• Additional 15% below 2015 levels by 2022 (operations-driven emissions)
FirstEnergy	• 90% below 2005 levels by 2045
Green Mountain Power (January 2018)	• Eliminate >8,000 metric tons of CO_2/year for next 20 years
Idaho Power (May 2017)	• Reduce CO_2 intensity 15%-20% below 2005 levels through 2020
Madison Gas & Electric (November 2015)	• 40% below 2005 levels by 2030 • 80% below 2005 levels by 2050
Minnesota Power	• 30% below 2005 levels by 2025
Montana-Dakota Utilities (2017)	• Reduce GHG intensity 45% below 2005 levels by 2030

As of 2017, company had reduced CO2 emissions rate to 108 lbs./MWh.

COMPANY	GOAL
National Grid (June 2018)	• 45% below 1990 levels by 2020 • 70% below 1990 levels by 2030 • 80% below 1990 levels by 2050
NextEra (September 2018)	• Reduce CO_2 emissions rate >65% below 2001 levels by 2021
NiSource (May 2017)	• 50% below 2005 levels by 2025
PG&E (July 2018)	• Reduce 1 million tons of GHGs from company operations through 2022
Pinnacle West (2017)	• Reduce CO_2 emissions rate to <600 lbs./MWh by 2032
PNM Resources (April 2017)	• 40% below 2012 levels by 2018 • 60% below 2012 levels by 2030 • 87% below 2012 levels by 2040
Portland General Electric (February 2018)	• More than 80% below 2010 levels by 2050
PPL (January 2018)	• 70% below 2010 levels by 2050
PSEG (February 2018)	• Additional 13 million tons of CO2-e emissions by 2030 from 2005 levels
Puget Sound Energy (December 2017)	• Reduce carbon footprint 50% by 2040
Southern California Edison * (October 2017)	• 40% below 1990 levels by 2030 • 80% below 1990 levels by 2050
Southern Company (April 2018)	• 50% below 2007 levels by 2030 • Low- to no-carbon operations by 2050
TVA	• 60% below 2005 levels by 2020 • 75% below 2005 levels by 2030
Vectren (2016)	• ~60% below 2005 levels by 2024
WEC Energy Group (August 2018)	• 40% below 2005 levels by 2030 • 80% below 2005 by 2050
Xcel Energy (2016)	• 60% below 2005 levels by 2030

* Reflects or is in line with state-wide, economy-wide GHG reduction targets.

03/17/14

A Summary of Recent PSD Permits for NGCC Plants – Applicable GHG Limits and Listed Emission Rates

Sources Cited by EPA	Source Type	Date Permit Issued	GHG BACT Limits	Other Applicable GHG Limits
Pioneer Valley, MA	New NGCC	04/12/2012	895 lbs of CO2e/MWh on a 365-day rolling average	
CPV Woodbridge Energy Center, NJ	New NGCC		925 lbs/MWh CO2#	
Newark Energy Center, NJ	New NGCC		887 lbs/MWh CO2 (gross output)[1]	2,000,268 tpy CO2e; 7,522 Btu/kWh heat rate
CPV Valley Energy Center, NY	New NGCC	07/25/2013	7,605 Btu/kWh and thermal efficiency of 57.4%	925 lbs/MWh CO2 (state requirement)
Wolverine Sumpter Power Plant, MI	Modify existing CT into combined-cycle CT		954 lbs/MWh CO2e gross energy output on a 12-month rolling avg.	
LCRA, TX	New NGCC	11/10/2011	0.459 Ton CO2e/MWh (net) on 365-day rolling average (918 lb/MWh)	7,720 btu/kwh on 365-day rolling average; 908,958 tpy CO2e/turbine
Pacificorp Lakeside Phase II, UT	New NGCC	05/04/2011	950 lbs/MWh CO2e (gross) on 12-month rolling average[2]	
FPL – Port Everglades, FL	New NGCC	12/27/2013	877 lbs/MWh CO2e (either fuel) (applicant proposed)	830 lbs/MWh CO2e on a 12-month rolling average (natural gas firing)
Palmdale Hybrid Power Plant, CA	New NGCC with Solar	10/18/2011	774 lbs/MWh CO2 net output and 7,319 Btu/kWh (365-day rolling)	1,913,000 tpy CO2e
Cricket Valley Energy, NY	New NGCC	09/27/2012	7,605 Btu/kWh and thermal efficiency of 57.4%	3,576,943 tpy CO2e (3 units combined); 120 lb CO2/mmBtu of input (state requirement)
Garrison Energy, DE	New NGCC		7,717 Btu/kWh and 1,006,304 tpy CO2e#	
Recently Permitted Sources Not Included in EPA data				
Riverton Power Station, KS	Modify existing CT into combined-cycle CT	07/11/2013	1,021,770 tons CO2/yr on 12-month rolling basis	
La Paloma Energy Center, TX	New NGCC	11/06/2013	909.2 - 934.5 lbs/MWh CO2 (gross) depending on turbine selected	
TECO - Polk Power, FL	New NGCC	01/18/2014	877 lbs/MWh CO2e on a 12-month rolling average	Excludes CT loads less than 50% of design capacity
Oregon Energy Center	New NGCC	06/18/2013	318,404 lb/hr CO2e and 1,394,611 tpy CO2e (rolling 12-month period)	
Sevier Power Company Power Plant, UT	New NGCC	10/25/2012	1,958,552.1 MT CO2e per rolling 12-month period	Initial BACT analysis recommended GHG limit of 1,100 lb CO2e/MWh
Cheyenne Prairie Generating Station, WY	New NGCC	09/27/2012	1,100 lbs/MWh CO2e (gross) and 187,318 tpy CO2e/turbine	

– Information shown is based on data in EPA chart, which was unable to be independently verified.
[1] – EPA chart lists standard as 879 lbs/MWh CO2; draft permit (09/13/2012) lists 887 lb standard and other limits shown
[2] – Limit included solely at request of applicant; "adds no value" since based on potential to emit (UT DEQ)

Edison Electric
INSTITUTE

Quinlan J. Shea, III
Vice President, Environment & Natural Resources

October 31, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

The Edison Electric Institute (EEI) appreciates the opportunity to provide the attached comments to the U.S. Environmental Protection Agency (EPA) regarding the proposed Affordable Clean Energy (ACE) rule (Docket No. EPA-HQ-OAR-2017-0355). 83 *Fed. Reg.* 44,746 (Aug. 31, 2018).

EEI is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for about 220 million Americans and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States.

EEI's comments focus on the power sector's continued transition to cleaner sources of energy, and the necessity, both from a legal and operational perspective, that any final section 111(d) guidelines take into account the ongoing clean energy transition by providing states and sources with significant flexibility when determining compliance measures. EEI members are committed to this customer-focused transition, investing significant capital in the energy grid to make it smarter, cleaner, more dynamic, more flexible and more secure in order to integrate additional distributed energy resources and deliver a balanced mix of resources to customers.

EPA must provide states with flexibility in establishing compliance plans with any final section 111(d) guidelines to facilitate the clean energy transition, and should encourage states to use whatever flexibilities best address technical and operational factors. If you have questions about these comments, please contact Alex Bond (abond@eei.org; 202-508-5523) or Eric Holdsworth (eholdsworth@eei.org; 202-508-5103).

Sincerely,

Quinlan J. Shea, III

cc: Bill Wehrum, Assistant Administrator, Office of Air and Radiation
Mandy Gunasekara, Deputy Assistant Administrator, Office of Air and Radiation
Ryan Jackson, Chief of Staff, Office of the Administrator
Peter Tsirigotis, Director, Office of Air Quality Planning and Standards
Dr. Nick Hutson, Energy Strategies Group

Attachments

COMMENTS OF THE EDISON ELECTRIC INSTITUTE ON THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED EMISSION GUIDELINES FOR GREENHOUSE GAS EMISSIONS FROM EXISTING ELECTRIC GENERATING UNITS; REVISIONS TO EMISSIONS GUIDELINE IMPLEMENTING REGULATIONS; REVISIONS TO NEW SOURCE REVIEW PROGRAM

EPA-HQ-OAR-2017-0355

October 31, 2018

The Environmental Protection Agency (EPA or Agency) proposes three separate actions that have implications for existing coal-based and other electric generating units (EGUs or units): 1) replacement of the Clean Power Plan (CPP) with the Affordable Clean Energy (ACE) rule to address greenhouse gas (GHG) emissions under Clean Air Act (CAA or Act) section 111(d); 2) corresponding clarifications of the existing section 111(d) implementing regulations as well as new section 111(d) implementing regulations; and 3) amendment of the New Source Review (NSR) regulations to include an hourly emissions increase test for EGUs. 83 *Fed. Reg.* 44,746 (Aug. 31, 2018).

The Edison Electric Institute (EEI) is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for about 220 million Americans and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than seven million jobs in communities across the United States. EEI members own and operate coal-based EGUs that would be regulated under ACE, as well as other EGUs that work in tandem with these affected units to provide affordable, reliable electricity to customers. EEI members also would be affected by changes to the section 111(d) implementing regulations and the proposed changes to the NSR regulations.

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Driven by a number of factors—including customer demands, technology developments, and federal and state regulatory obligations—the electric sector is undergoing a transition that will continue over the next decade and beyond. Concurrent with this transition, EEI member companies are investing significant amounts of capital—more than 113 billion dollars in 2017 alone—to make the energy grid smarter, cleaner, more dynamic, more flexible, and more secure in order to integrate and deliver a balanced mix of resources from both central and distributed energy resources to customers. The electric sector continues to invest in a range of 24/7 energy sources and other technologies, so that the sector can reduce GHG emissions faster, and bring the benefits of clean, reliable, and affordable energy to everyone.

This transformation has technical and operational impacts across the power sector, driving concerns about the implementation of EPA's three proposed actions, particularly the development, implementation and enforcement of unit-specific GHG performance standards and compliance plans by the states. EPA must consider this transformation if the Agency finalizes these proposals and provide EGU owners and operators and states significant compliance flexibility, consistent with the requirements of the Act.[1] Failure to provide such flexibility has the potential to undermine not only the clean energy transition by increasing costs for electricity

[1] EPA asserts that the Agency "proposes *possibly* to replace the CPP" with the ACE rule. *See* 83 *Fed. Reg.* at 44,748 (emphasis added). EPA also notes that the three proposals are "appropriate policies in their own right and on their own terms" and "would be severable…on judicial review" and seeks comments as to whether to finalize the NSR revisions, in particular, in a separate action. *See id.* at 44,783. In these comments, the discussion of these three proposals and their possible finalization in some future action, EEI is not taking a position on these issues. The desirability of finalizing the proposed NSR revisions in a separate action are discussed in more detail in section VI(C), *infra*.

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customers, but also EPA's proposed ACE rule itself, by increasing the economic burdens imposed on the remaining existing coal-based EGU fleet.

I. Executive Summary.

EEI's comments on the proposed ACE rule, the proposed clarifications and changes to the CAA section 111(d) implementing regulations and the proposed amendment of the NSR program are focused on two areas: 1) the power sector's continued transition to cleaner sources of energy; and 2) the necessity, both from a legal and operational perspective, that any final CAA section 111(d) guidelines take into account the ongoing clean energy transition by providing states and sources with significant flexibility when determining compliance measures. EEI's comments center on the importance of ensuring a wide range of compliance options and the role of states in designing standards of performance and implementing state plans.

Electric companies are committed to delivering clean energy to customers and are leading the clean energy transition. EEI members are investing significant capital in the energy grid to make it smarter, cleaner, more dynamic, more flexible and more secure to allow for the integration of additional distributed resources into the balance mix of resources they deliver. As a result, total power sector GHG emissions were 28 percent below 2005 levels at the end of 2017 and are projected to continue to decrease into the next decade.[2] These expected future reductions are bolstered by voluntary emissions reductions commitments offered by more than 30 of EEI's member companies, many of which pledge to reduce GHG emissions by 80 percent or more

[2] *See* EIA, *Monthly Energy Review*, Table 7.2b (Oct. 2018), https://www.eia.gov/totalenergy/data/monthly/pdf/sec7_6.pdf.

below 2005 levels by 2050, and/or contain significant reductions pledged for 2030 and 2040 as well.[3] These reductions are driven by a range of factors, including the historically low price of natural gas, the declining costs of renewable generation, customer preferences and other regulatory requirements. While the CPP was stayed by the Supreme Court in 2016, the power sector will have complied with the final 2030 goals of the rule—in terms of gross emissions reductions—before the 2022 start date included in that program.

Given this fleet transition, it is therefore important to provide not only states with flexibility to develop emissions standards of performance, but also significant flexibility to states and sources in establishing compliance plans for affected units. EPA should take into consideration important operational and technical realities of EGU operation, such as the variability of each unit's emissions and the degradation of heat rate improvements (HRI) over time, when determining its approach to the range of compliance options that states can include in plans. In addition, the Agency should provide more detailed, but not prescriptive, guidance to states on how to set standards and support compliance flexibility. Importantly, EPA should make clear that the Agency is not dictating that states must use a particular compliance mechanism, and that EPA is not preemptively determining that any potential flexibilities for compliance are invalid, including averaging, trading, and altering the form of the standard. Failure to provide such compliance flexibility to states has the potential to undermine the on-going clean energy transition by increasing the cost of electricity for customers and increasing economic burdens on the existing coal-based fleet.

[3] *See* Appendix A, which lists these voluntary public commitments.

Additionally, EPA should clarify the applicability of the proposed ACE rule, as well as certain parts of the alterations to the implementing regulations.

II. Electric Power Companies Continue to Lead the Clean Energy Transition.

The electric power industry is in the middle of a profound, long-term transformation in how electricity is generated, transmitted, and used. This transformation is being driven by a wide range of factors, including: declining costs for natural gas and renewable energy resources, technological improvements, changing customer expectations, various federal and state regulations and policies, and the growth of distributed energy resources.

Customers throughout the country believe that the way energy is used and produced is changing, and they want more control over the energy they use. Customers are excited about innovation and are paying attention to what is coming next. Most importantly, they expect our industry to be at the center of change and to deliver the energy future they want, in ways that enhance reliability and affordability. To meet customers' changing needs, the electric power industry is transitioning to cleaner generation sources and leading the way on renewables and next-generation nuclear power, while ensuring that existing clean energy resources are available now and in the future.

Electric companies are focused on leading this clean energy transition on a fleetwide basis and doing it in an affordable way that maintains system reliability. Based on data from the Department of Energy's Energy Information Administration (EIA) and adjusting for inflation using the Consumer Price Index (CPI), the average price of electricity (in real 2005 $) was 8.6

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cents per kWh in 2007 and 8.4 cents per kWh in 2017.[4] This transition can power the country in a way that is good for our economy, good for our health and the environment, and responsive to the needs of our customers for reliable, affordable, and increasingly clean energy sources.

A. Electric Companies Are Committed to Clean Energy for Customers.

As noted above, more than 30 EEI member companies have announced a variety of short-, mid- and long-term GHG reduction goals over the coming decades. many of which pledge to reduce GHG emissions by 80 percent or more below 2005 levels by 2050, and/or contain significant reductions pledged for 2030 and 2040 as well.[5] Since 2014, more than half of the industry's investments in new electricity generation have been in wind and solar generation resources. As a result, the use of renewable energy to generate electricity is projected to almost quadruple between 2010 and 2040 even without additional policy intervention.[6] In addition, the industry is building smarter energy infrastructure, and these investments are creating additional jobs and making the energy grid more dynamic and more secure for all customers. Electric power companies also are investing in energy efficiency and providing customers the energy solutions they want, while partnering with leading innovative companies and start-ups to shape the future using technology. Thus, this transition is poised to continue going forward.

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[4] EEI internal analysis based on EIA's *Electric Power Annual 2017*, Table 2.4 (Oct. 2018), https://www.eia.gov/electricity/annual/pdf/epa.pdf. Note that information on retail electricity prices in nominal dollars can be found in table 2.4 and that information on the CPI is provided by the Bureau of Labor Statistics, https://data.bls.gov/pdq/SurveyOutputServlet.

[5] *See* Appendix A.

[6] *See* EIA, *Today in Energy, Nearly half of utility-scale capacity installed in 2017 came from renewables* (Jan. 10, 2018), https://www.eia.gov/todayinenergy/detail.php?id=34472.

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B. GHG and Criteria Pollutant Emissions Have Declined Considerably and Electric Companies Have Significantly Increased Deployment of Clean Energy Technologies; the Proposed Rule Does Not Assist This Transition.

The mix of resources used to generate electricity in the United States has changed dramatically over the last decade and is increasingly clean. Natural gas surpassed coal as the main source of electricity generation in the United States for the second year in a row in 2017, with natural gas-based generation powering 32 percent of the country's electricity, compared to coal-based generation at 30 percent.[7]

In addition, according to the EIA, today more than one-third of U.S. electricity comes from zero-carbon energy sources, including nuclear energy, hydropower and other renewables.[8] The electric power industry is leading the development of zero-carbon energy sources, including renewable energy. For example, the industry provides virtually all the wind, geothermal, and hydropower electricity—and, electric companies own 62 percent of all solar capacity—in the country.[9] Our universal (or large-scale) solar projects accounted for 59 percent of installed capacity in 2017.[10] The industry is also leading the way on energy storage and uses or contracts for more than 90 percent of all storage.

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[7] *See* EIA, *Electricity Explained: Electricity in the United States* (Apr. 2018), https://www.eia.gov/energyexplained/index.php?page=electricity_in_the_united_states.

[8] *See* EIA, n.2, *supra*.

[9] *See* Solar Energy Industries Association, Wood Mackenzie, Limited: Solar Market Insight Report 2018 Q3, https://www.seia.org/research-resources/solar-market-insight-report-2018-q3.

[10] *See Id.*

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Driven by these changes, the power sector has significantly reduced its emissions. According to EIA, as of the end of 2017, power sector CO_2 emissions were 28 percent below 2005 levels.[11] Investor-owned electric companies alone have reduced emissions by 35 percent below 2005 levels as of the end of 2017,[12] essentially surpassing the nation-wide carbon dioxide (CO_2) reductions that EPA estimated would have been achieved by the CPP—now proposed for rescission—*four years before the CPP's first compliance period was to begin.*

As a result of these reductions, the transportation sector surpassed the electric power sector as the leading domestic source of CO_2 emissions, starting in 2016. That trend continued in 2017, with the transportation sector emitting 37 percent of U.S. CO_2 emissions, while the power sector emitted 34 percent.[13] As EPA notes in the proposed rule, the cumulative effect of these on-going changes is a reduction in the projected share of CO_2 emissions from electric generators, even without the CPP. "In other words, these declining emission trends have continued to develop even in the absence of implementation of the CPP." 83 *Fed. Reg.* at 44,751.[14]

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[11] *See* EIA, n. 2 at Table 12.6, *supra*, https://www.eia.gov/totalenergy/data/monthly/pdf/sec12_9.pdf.

[12] Based on an EEI analysis of CO_2 emissions data from ABB Velocity Suite.

[13] *See* EIA, n.2, *supra*, at Tables 12.1, 12.5, and 12.6, https://www.eia.gov/totalenergy/data/monthly/pdf/sec12_3.pdf; https://www.eia.gov/totalenergy/data/monthly/pdf/sec12_8.pdf; and, https://www.eia.gov/totalenergy/data/monthly/pdf/sec12_9.pdf.

[14] In addition to CO_2 reductions, between 1990 and 2017, power sector emissions of nitrogen oxides (NO_x) were cut by 84 percent and sulfur dioxide (SO_2) emissions by 92 percent—a period when electricity use grew by 35 percent, helping to reduce ozone, particulate matter and haze. Data compiled from EIA, EPA, and the U.S. Bureau of Economic Analysis.

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EPA had previously estimated that the CPP would lead to an average reduction of GHG emissions of 32 percent below 2005 levels by 2030.[15] In the Regulatory Impact Analysis (RIA) accompanying the ACE proposal, EPA estimates that this proposed rule will lead to some additional reductions when compared to the repeal of the CPP. "Relative to a projected future without CPP, the illustrative policy scenarios are projected to result in an annual CO_2 emissions decrease of, at most, two percent in 2025-2035. Additionally, EPA projects a 2030 CO_2 emissions decrease of 35 percent below 2005 levels for the base case (CPP) and 33 percent below 2005 levels for each of the illustrative policy scenarios under the ACE proposal." RIA at 3-14. Similarly, EPA has indicated that its analysis for the ACE Rule suggests "that, when states have fully implemented the ACE rule, U.S. power sector CO_2 emissions could be around 34 [percent] below 2005 levels."[16] However, those projected reductions have largely already been achieved due to the on-going fleet transition described above.

The CO_2 emissions reductions achieved by the power sector have occurred as the result of a range of different, and occasionally overlapping, reasons. According to the EIA, two basic contributing factors that led to the cumulative reduction of more than 3,800 million metric tons of CO_2 over the last decade were "the substitution of coal-fired generation with the less-carbon-intensive and more efficient combined-cycle natural gas-fired generation and the growth in non-carbon electricity generation, especially from wind and solar."[17] Factors cited in an analysis

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[15] EPA, *Clean Power Plan Fact Sheet* (Aug. 2015), https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-clean-power-plan-numbers.html#print.

[16] EPA, Fact Sheet: Proposed ACE Rule – CO_2 Emissions Trends.

[17] *See* EIA, *U.S. Energy-Related Carbon Dioxide Emissions, 2017,* at 12 (Sept. 2018).

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published by The Energy Collective Group include coal-to-natural gas fuel switching, natural gas-to-wind and solar power displacement, increased generation from renewable generation and reduced demand for net generation.[18] EPA itself acknowledges this in the proposed rule when noting that "all of these trends, in total, are expected to result in declining power sector CO_2 emissions." 83 *Fed. Reg.* at 44,751.

III. EPA's Proposed BSER Necessitates That States Be Provided Significant Flexibility In Establishing Emissions Standards And Compliance Plans For Existing Coal-Based EGUs.

EPA proposes to identify HRI as the Best System of Emission Reduction (BSER) for existing steam generating fossil fuel-fired EGUs, which are measures that can be applied at an affected unit. *See id.* at 44,748. EPA finds that this BSER is consistent both with the authority provided the Agency under CAA section 111(d) and with what is technically feasible and appropriate for affected coal-based generation. *See id.* at 44,749. Once EPA determines BSER, consistent with the requirements of CAA section 111(d)(1), states are to determine standards of performance for affected units. *See id.* at 44,755. According to EPA, "states have considerable flexibility in determining the emissions standards for units." *Id.* at 44,763.

While EPA recognizes states' considerable flexibility when setting performance standards for affected units, EPA's proposed approach to the range of compliance options that states can provide affected units is too prescriptive: EPA proposes to limit compliance options for states and units to only those that can be applied and measured at the unit level in a very specific

[18] *See* John Miller, The Energy Collective Group, *What Major Factors Reduced U.S. Power Sector Carbon Emissions 2007-2017?* (Feb. 2018), https://www.energycentral.com/c/ec/what-major-factors-reduced-us-power-sector-carbon-emissions-2007-2017.

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form.[19] *See id.* at 44,765. EPA must provide states and affected units with a broader range of compliance flexibilities. Specifically, EPA should decline to limit potential compliance flexibility in any final ACE rule. Instead, EPA should encourage states to use whatever flexibilities best address state and local technical and operational factors. EPA can evaluate these flexibilities in the context of its review of state plans.

A. EPA's BSER and Approach to Compliance Flexibility Ignores Important Technical Considerations and the Variability of Each EGU's Emissions.

In determining BSER, EPA proposes a menu of HRI projects that states must evaluate to determine an emission standard for an affected unit. In approaching BSER in this way, EPA explicitly recognizes unit variability, noting that each unit has unique characteristics that reflect that each was designed to meet local and regional electricity needs, and that geography, elevation, unit size, pollution controls, firing method and utilization rates are all factors that can affect the efficiency and performance of a unit. *See id.* at 44,755. However, while EPA's recognition of unit variability—the different factors that affect heat rate at a unit—and the diverse nature of the coal-based fleet is appropriate when setting BSER, in limiting compliance flexibility EPA fails to recognize the different heat rate/emissions rates that can be achieved by units over time and that the differences between units not only affect which HRI projects may be implemented at a unit, they also have significant effect on the actual emissions rates that these units can achieve.

[19] EPA has proposed to allow source-wide averaging, which is consistent with the source-specific BSER.

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Put simply, emissions rates vary considerably over time. Further, HRI degrade over time, creating another level of emissions rate variability.[20] These factors may make it difficult for states to establish an emissions standard for an affected unit that can be achieved continuously.

1. Heat Rates Are Not Consistent Over Any Given 24-Hour Period Due to Load Following.

One of the most important factors affecting heat rate is the ramping up and down of a unit in response to load fluctuations. In general, units achieve lower emissions rates at higher and more constant capacity factors. The more fluctuations in generation output, the more fluctuations there will be in emissions performance.[21] While many coal-based units were intended to operate as baseload units, with high and steady capacity factors, the dynamics of the generation mix are changing this. As EEI has pointed out to the Agency in previous comments, many coal units are operating in a load-following role due to the increase of renewable generation and natural gas generation on the system.[22] The increase in load-following behavior has resulted in capacity

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[20] It is even possible that a unit may experience higher average emissions following a HRI project, because its operating profile changes. This does not mean the HRI was not beneficial as, arguably, emissions could have been even higher without the project. But demonstrating the HRI project led to lower emissions may be difficult in some instances, given the range of factors that impact heat rate.

[21] *See* International Energy Agency, *Power Generation from Coal: Measuring and Reporting Efficiency Performance and CO_2 Emissions,* at 19-20 (2010), https://www.iea.org/ciab/papers/power_generation_from_coal.pdf.

[22] *See* Department of Energy, National Energy Technology Lab, *Impact of Load Following on the Economics of Existing Coal-Fired Power Plant Operations*, DOE/NETL-2015/1718 (June 3, 2015)(focusing on cold starts more than ramping, this report also notes that increased cycling requires more fuel and more maintenance, thereby increase the total cost to operate coal units), https://www.netl.doe.gov/energy-analyses/temp/ImpactofLoadFollowingontheEconomicsofExistingCoal-FiredPowerPlantOperations_060315.pdf.

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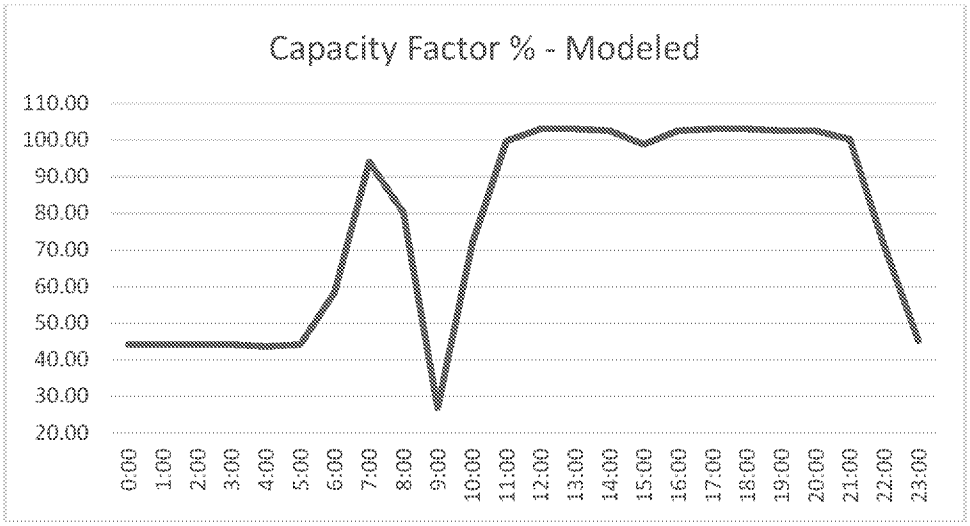
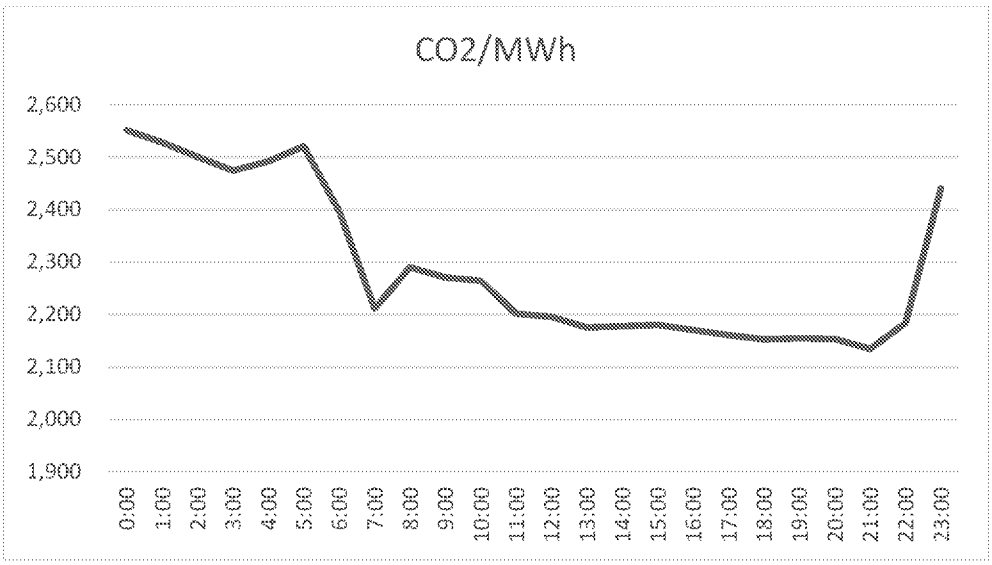
factors and emissions rates with increasing and significant variability.[23] It is not clear how states could set an emissions rate standard that addresses this daily variability. The following figures, which look at emissions from two facilities over one 24-hour period, illustrate the issue:

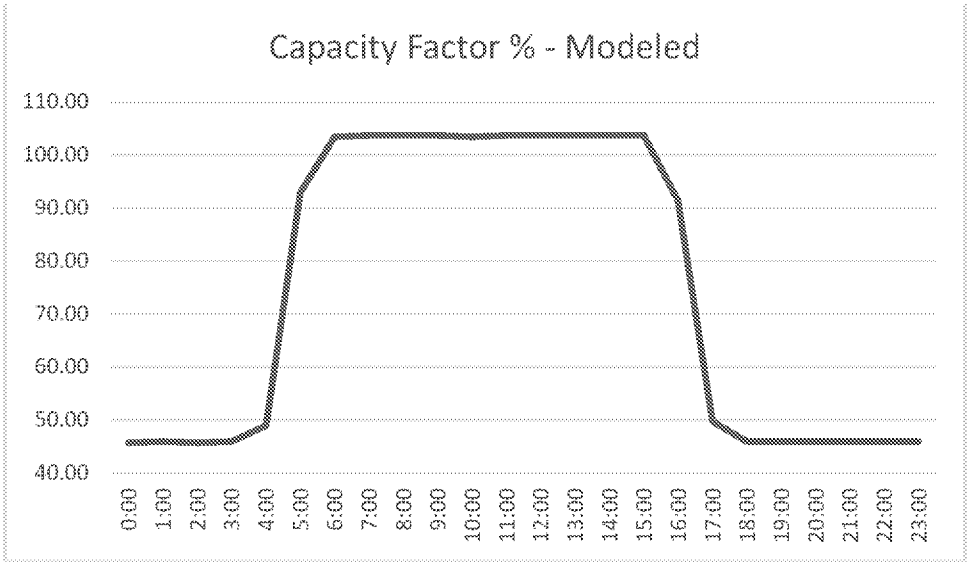
Figures 1 and 2: Coal-Based Unit in PJM, June 6, 2018

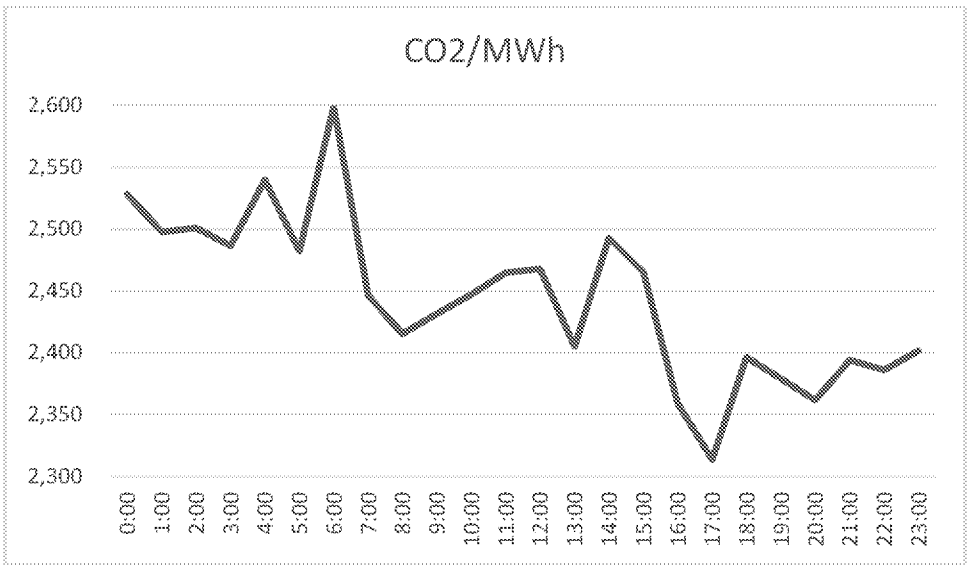




[23] An increase in load-following behavior may reduce total utilization of a coal-based EGU, reducing total CO_2 emissions, but emissions rates would go up.

Figures 3 & 4: Coal-Based Unit in PJM, June 12, 2018

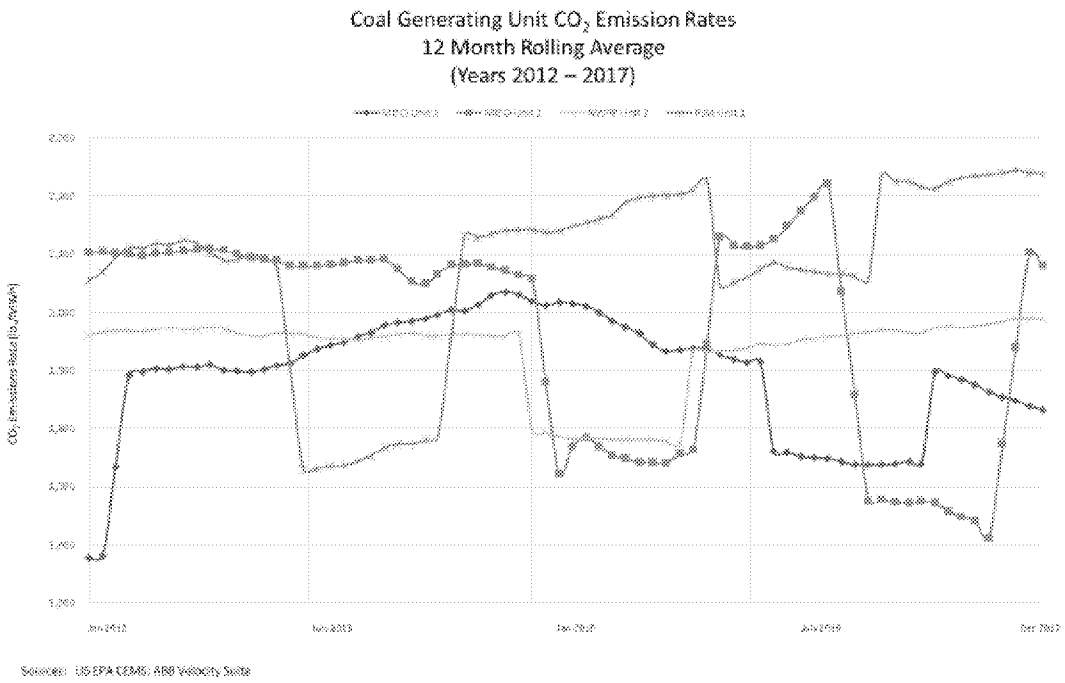




EPA has not addressed this type of emissions variability in the context of establishing BSER. While HRI projects may reduce a unit's rate of CO_2 emissions, these projects will not ameliorate this kind of intraday variability in emissions.

2. Heat Rates Can Be Variable When Measured on an Annual Basis.

Examples of several units within three different balancing authorities charged with maintaining the reliability of the electric grid also highlight the variability of a unit's CO_2 emission rate over time—in this case, when measured over a period of years.



The graph above demonstrates that there are significant changes in a unit's heat rate, not just over a 24-hour period, but when measured over a period of years. While this graph represents the emissions rate of only four units in the larger coal-based generating fleet, there are many coal-based units across the country that operate in a load-following manner, which can impact not only intraday emissions rates, but also emissions rates year-to-year. Accordingly, a particular emissions rate may be achievable one year, but not another, due to the operations of the unit in response to the needs of the larger energy grid, which changes constantly as new resources and new sources of demand are added to the system. It is unlikely that these units would be able to

achieve continuous compliance with an emissions rate standard developed by states and included in CAA section 111(d) compliance plans.

3. Heat Rate Improvements are Not Permanent and Will Degrade Over Time.

EPA's approach to BSER in the proposed ACE rule appears to assume that, once implemented, the HRI accomplished by a particular project is permanent. This is not the case. All HRIs deteriorate over time, which has implications for the ability of a unit to achieve an emissions rate in the future that is based on an HRI project.

The Electric Power Research Institute (EPRI) has documented concerns about HRI degradation, noting that all HRI projects have a finite life unless additional efforts (and costs) are made to maintain them.[24] For example, EPRI has noted in this docket, "…replacing the seals in a steam turbine upgrade may provide a ½ percent heat rate improvement upon initial installation. However, under normal operating conditions, that gain will slowly diminish and ultimately disappear after approximately six years. If an upset occurs prior to the of the modification's normal life—for example, a rough plant startup or shutdown—the entire heat rate improvement could be immediately lost."[25] EPA has not addressed how states can set emissions standards that recognize and accommodate this lack of permanence.

B. EPA's Proposed BSER and Proposed Approach to the Standards Do Not Address the CAA Requirement that Emissions Standards Must Be Complied with Continuously.

EPA asserts that the flexibilities provided to states in setting emissions standards will provide for the effective implementation and enforcement of these standards as they apply to particular

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[24] Comments of the EPRI filed in Docket No. EPA-HQ-OAR-2017-0355 on Oct. 15, 2018.

[25] *Id.*

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affected units. *See* 83 *Fed. Reg.* at 44,765. However, the standard setting flexibilities that EPA identifies may not address the emission variability concerns of all units, as discussed above. Coupled with the lack of meaningful compliance flexibility, EPA's proposed BSER creates significant concerns that the emission standards that states develop may not be achievable on a continuous basis.

As a preliminary matter, simply making all standards less stringent than they otherwise may be will not address concerns about achievability and enforceability associated with emissions variability, as EPA appears to believe is the case. *See id.* at 44,766. Similarly, longer compliance schedules also may not fully address variability, *see id.*, and neither will the use of non-BSER measures, *see id.* at 44,765.[26] At a minimum, it would be helpful if EPA would describe a process for how states can set performance standards in a manner that provides sufficient flexibility to assure both achievability and enforceability, since this is critical to the success of the program.

EPA proposes to require that all state plans include measures that provide for the implementation and enforcement of the emissions standards to be applied to all affected units. *See id.* Further, EPA has not addressed the requirements of CAA section 302(k):

> The terms "emissions limitation" and "emission standard" mean a requirement established the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of source to assure continuous emission reduction....

[26] For some units and for some states, these tools may be useful and may address emissions variability. But, they will not address all variability concerns, which is why EPA should not foreclose states from considering a range of compliance flexibilities.

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42 U.S.C § 7602(k). Courts have interpreted this requirement to mean that standards should apply at all times and that efforts to exempt periods of operation are contrary to the plain language and intent of the Act. *See Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied*, 130 S. Ct. 1735 (2010). As currently contemplated in the proposed ACE rule, states would develop a single emissions rate standard for each affected unit. As explained above—and given the documented variability in emission rates related to a host of factors—it is not clear how states could develop a single rate that would be deemed both achievable and enforceable.[27]

C. EPA Should Permit States to Develop State Plans that Include Compliance Flexibilities that Address the Operational and Technical Concerns Identified in These Comments, Consistent with the Requirements of the CAA; EPA Should Provide Guidance on Compliance Flexibility but Should Be Clear that States Can Explore All Options.

States need flexibility when creating and setting standards. While determining BSER at the source, or "inside-the-fence" is consistent with the source-based nature of section 111 of the CAA, the ACE rule should allow states flexibility to set compliance standards while using a range of mechanisms both to reduce the cost of compliance and ensure that the standards are achievable. EPA has not considered emissions rate variability sufficiently in the determination of BSER and has compounded the problem by mandating a limited approach to compliance that focuses exclusively on measures that can be accomplished at the unit. While some of the more limited compliance flexibilities EPA proposes to permit, like averaging, would help address

[27] Different kinds of standards can apply during different periods, to reflect operational issues or optimal functioning of control technologies. For example, while continuous compliance is required with an emission limits under the Mercury and Air Toxics Standards, the Agency provided for work practice standards for periods of startup and shutdown. *See Reconsideration of Certain Startup/ Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial- Institutional, and Small Industrial- Commercial-Institutional Steam Generating Units,* 79 *Fed. Reg.* 68,777 (Nov. 19, 2014).

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variability in some instances, greater flexibility may be needed to ensure that standards are implementable and enforceable. EPA should not be prescriptive in any final ACE rule as to how compliance is achieved and what types of compliance flexibilities are or are not permissible. EPA should instead allow states to include such flexibilities as they deem appropriate for units under their jurisdiction. This would be consistent with EPA's recognition that states have significant flexibility in determining emissions standards for units, as contemplated by the CAA. *See id.* at 44,763. The form of the standard and the methods for demonstrating compliance are part of the standard, and states should be afforded the same flexibility when determining these elements as well. *See id.* at 44,765 (noting that "states also have flexibility in the measures and processes that they put in place for affected EGUs to meet their compliance obligations").

EPA can assess the reasonableness of a state's proposed flexibilities in the context of each state plan, which the Agency is obligated to review. It would be appropriate for EPA to provide states some guidance on how to implement certain forms of compliance flexibility, as well as guidance on appropriate mechanisms to evaluate emissions variability in setting a performance standard.

1. Averaging Could Help States and Units Address Emissions Variability.

EPA proposes to allow limited averaging as a potential compliance flexibility for states and affected units. *See* 83 *Fed. Reg.* at 44,769, 44,765 and 44,767. Specifically, EPA proposes to afford states discretion in establishing averaging times for compliance demonstrations for individual affected EGUs. EPA also proposes to allow limited averaging across affected units within the same facility for compliance purposes. Both forms of averaging may be useful in certain instances to address emissions variability and should be options that states could choose to include in their compliance plans.

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For some affected EGUs, longer compliance averaging provisions may smooth out variability in hourly emissions. This tool has been permitted by EPA in the context of GHG emission standards for new units under CAA section 111(b). *See, e.g.*, 60 C.F.R. § 60.5540 (allowing for 12-month rolling averages for compliance demonstrations). Given the annual and multi-year variability in emissions for some units, longer averaging periods also would be appropriate tools for states to consider.[28]

Similarly, averaging across units at the same facility, as EPA proposes, may help address emissions variability, facilitating enforceable emissions standards for a group of units, and allowing implementation of efficiency measures that are most cost-effective and result in the most meaningful improvements at specific units, rather than compelling minor improvements at all units. *See* 83 *Fed. Reg.* at 44,767. EPA's proposal to limit such averaging only to those units at the same facility, however, is not required by law. Averaging across a larger number of units—for example, those within a state—could help address overall emissions variability, while still ensuring that emissions rates are achieved. Such an approach is similar to that used under CAA section 110 compliance programs, which allow emissions trading—another form of averaging.

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[28] Similar to the approach taken to standards based on the Best Available Control Technology (BACT) analysis under CAA section 169, the standards established by states under section 111(d) should not be set to reflect the maximum possible emissions control under the most favorable conditions, but instead at levels that will allow units to achieve compliance consistently. BACT standards often reflect a compliance margin and are coupled with appropriate averaging periods. *See In re Steel Dynamics, Inc.*, 9 E.A.D. 165, 188 (EAB 2000); *see also In re Knauf Fiber Glass, GmbH*, 9 E.A.D. 1, 15 (EAB 2000).

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Further, should they choose to do so, states should be able to utilize averaging across affected and unaffected units as an option for compliance purposes. Such averaging also could provide significant compliance benefits, allowing states not only to develop enforceable standards, but also to recognize significant investments in lesser-emitting generation. Allowing this type of averaging for compliance may obviate the need for states to use the variance provision to address the remaining useful life of an affected unit, making the establishment of emissions standards significantly easier for states. *See id.*

Accordingly, EPA should permit states to propose a range of averaging options in their compliance plans, as this may assist states in establishing enforceable standards for affected units with variable emissions rates.

2. Measuring Standards in Terms of Mass Emissions Could Provide Significant Operational Flexibility to Affected EGUs.

EPA proposes to limit the form of the standard to an emission rate of pounds of CO_2 per Megawatt-hour (MWh). *See* 83 *Fed. Reg.* at 44,764. Converting an emissions rate standard into a mass cap provides significant operational flexibility to units because mass caps do not require hourly compliance and therefore address intraday and monthly emissions variability concerns. Such flexibility has been incorporated into the GHG prevention of significant deterioration (PSD) permits issued by many states to new and modified units.[29] States should be permitted to convert emissions rate standards into emissions mass caps if this would help address variability and other compliance challenges.

[29] *See* analysis of GHG PSD permits, Appendix B.

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3. EPA Should Permit States to Propose Trading Programs in Order to Develop Achievable and Enforceable Emissions Limits for Affected Units.

EPA solicits comment on trading but identifies legal and practical concerns with allowing states to incorporate trading into their compliance plans. *See id.* at 44,767-68. Specifically, EPA notes that permitting trading may allow states to implement standards that are more stringent than those that would be applicable otherwise and that it would be too difficult to address the required evaluation, monitoring and verification (EM&V). *See id.* These concerns should not be impediments to trading, should a state propose to include this as a compliance option.

Trading would be provided as a compliance option *after* setting the standard. It would not be used to determine the standard. Trading harnesses market incentives and typically reduces compliance costs. Trading was employed by Congress in the 1990 CAA Amendments as part of the Acid Rain program to reduce emissions of SO_2. No affected unit was required to engage in trading, but trading was an option that many, if not most sources, chose to participate in, as either a buyer or seller. But Congress had predetermined the reductions required. In much the same way, EPA needs to differentiate the basis for standard setting from the options for compliance. Trading here would be a compliance option, not a standard setting tool.

As noted above, emissions trading is on some level another form of emissions averaging. Both would help address emissions variability. While EM&V is an important issue in any trading program, both EPA and the states have significant experience in this area upon which to draw. For example, the EPA has established successful trading programs in rules including the NOx state implementation plan (SIP) Call and the Cross-State Air Pollution Rule (CSAPR), among

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others.[30] In those programs, trading was based on an evaluation of the level of reductions achievable at individual sources and the requirements were translated into emissions budgets, which were determined to be equivalent or more stringent than the achievable level of emissions at the sources.

4. Other Forms of Compliance Flexibility Could Help Address Emissions Variability; EPA Should Permit States to Propose Different Approaches in Compliance Plans and Should Not Preemptively Determine That Any Potential Flexibilities Are Invalid.

While these comments identify some of the compliance options that states could include in their compliance plans to address emissions variability and other state and local factors, this discussion is not meant to be exhaustive. States should be able to propose any compliance flexibilities that would allow for the development of enforceable emissions standards for affected units. EPA should not preemptively determine that any particular compliance flexibility option is invalid. Instead, EPA should assess each state plan on its merits. As noted, EPA could help the states develop achievable, enforceable emissions rate standards of performance by providing guidance as to the implementation of certain compliance options.

IV. EPA Should Clarify The Applicability Of The Proposed ACE Rule.

As discussed, EPA proposes that BSER is a menu of HRI that could be undertaken at the affected unit. The Agency defines an affected EGU, *i.e.*, a unit that is subject to regulation, as any fossil fuel-fired EGU that was in operation or under construction as of August 31, 2018. Affected EGUs also must be fossil fuel-fired electric utility *steam* generating units that are

[30] *See, e.g.*, EPA's NOx Budget Trading Program, 63 *Fed. Reg.* 57356 (Oct. 27, 1998); the Clean Air Interstate Rule, 70 *Fed. Reg.* 25,161 (May 12, 2005); CSAPR, 76 *Fed. Reg.* 48,208 (Aug. 8, 2011); and the CSAPR Update Rule, 81 *Fed. Reg.* 74,504 (Oct. 26, 2016).

capable of selling more than 25 MW to the grid and with a base load rating greater than 260 G/h (250 MMBtu/h) heat input of fossil fuel. *See* 83 *Fed. Reg.* at 44,754. As noted in the proposal, these applicability requirements differ from those used in the CPP and reflect the fact EPA only proposes a BSER for steam EGUs. *See id.* However, like the CPP, EPA proposes that units that are not deemed affected would be exempt from inclusion in state compliance plans. *See id.* at 44,755.[31] In particular, the Agency did not identify a BSER for integrated gasification combined cycle (IGCC) units or stationary combustion turbines, so these units are not considered to be affected units and are exempt from inclusion in state compliance plans. *See id.* at 44,754.

Despite the discussion of applicability in the proposed ACE rule, EGU owners and operators are unclear as to which units may be subject to the proposed ACE rule and would need to be included in state compliance plans. EPA should clarify the applicability of the proposed ACE rule, as discussed below.

A. EPA Must Clarify the Proposal with Respect to NGCCs, Which Have a Steam Component, and Other Natural Gas-Based Steam Boiler EGUs.

As noted, the proposed rule states that an affected unit is any fossil fuel-fired electric utility steam generating unit that meets certain size and capability requirements. *See id.* The proposal is

[31] EPA lists six types of EGUs that would be exempt from inclusion in state plans: 1) units subject to 40 C.F.R. § 60 subpart TTTT as a result of modification or reconstruction; 2) steam generating units subject to federally enforceable permit limits that limit net electric sales to one-third or less of their potential electric output or 219,000 MWh on an annual basis; 3) non-fossil units that limit the use of fossil fuels to 10 percent or less of the annual capacity factor or are subject to a federally enforceable permit limit to this effect; 4) units that serve a generator along with other steam generating units where the effective generation capacity is 25 MW or less; 5) municipal solid waste incineration units subject to 40 C.F.R. § 60 subpart Eb; or 6) commercial or industrial solid waste incineration units subject to 40 C.F.R. § 60 subpart CCCC. *See* 83 *Fed. Reg.* at 44,755. Should EPA determine that any of these types of units should be included in state plans to comply with the proposed ACE rule, EPA would have to provide an opportunity for notice and comment on the appropriate BSER for these types of units.

clear that this does not include IGCC units and stationary combustion turbines. *See id.* Consistent with this, in any final rule, the Agency must clarify whether natural gas combined cycle (NGCC) units, which have a steam generating component, are affected units. Additionally, the Agency should clarify whether natural gas-fired steam boilers are affected units and whether they are subject to inclusion in state plans.

Further, the Agency should not set a BSER for NGCCs in this docket given the lack of information currently in the record. EPA, in fact, notes that "no commenters provided specific information on the availability, applicability, or cost of HRI opportunities for NGCC units—nor did any commenters provide any information on the magnitude of expected heat rate reductions." 83 *Fed. Reg.* at 44,761. However, if the Agency does receive such information, it would be necessary and appropriate for EPA to initiate a separate rulemaking (or, at minimum, a supplement to this rulemaking) to provide all stakeholders sufficient notice and opportunity to comment on such data and any BSER that EPA may propose as a result.

EPA cannot reconsider the determination that there are no HRIs that represent BSER for NGCCs and cannot develop BSER for other natural-gas steam boiler EGUs without such notice and comment. While EPA has generally explored whether HRIs are available for NGCCs, *see id.*,[32] EPA's analysis fails to identify and address fundamental issues related to potential HRIs at

[32] EPA's attempt to assess a benchmark heat rate for NGCCs by looking at historic national performance is fundamentally flawed if the goal is to determine BSER. *See* 83 *Fed. Reg.* at 44,761. While certain classes of turbines have design specifications that include expected heat rate, actually achieved heat rates depend on an array of unit-specific factors. A national average obscures these factors and, therefore, could never serve as BSER as it would not lead to an achievable standards, consistent with the requirements of CAA section 111(a).

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NGCCs. Specifically, the Agency does not address that efforts to obtain HRI at NGCCs likely will involve upgrading significant components, including the compressor, combustor or entire turbine gas path.[33] Implementing these upgrades may cross the line from HRI project to modification or reconstruction, which could require that these units be regulated under CAA section 111(b) instead of section 111(d). See 40 C.F.R.§ § 60.14 and 60.15. Further, an approach to HRI projects at NGCCs that required such major upgrades would be inconsistent with EPA's proposed BSER, which rejects standards that can only be accomplished through a fundamental redesign of the source. *See id.* at 44,753. (Comment C-3).

B. EPA Should Clarify the Cut Off Date Between New and Existing Fossil Steam Generating Units for Purposes of Regulation under CAA Section 111(d).

In the proposed ACE rule, EPA states that an affected EGU is any fossil fuel-fired electric utility steam generating unit that was in operation or had commenced construction as of August 31, 2018. *See* 83 *Fed. Reg.* at 44,754. However, in a footnote, EPA recognizes that "under section 111(a) of the CAA, determination of affected sources is based on the date that EPA proposes action on such sources" and that "January 8, 2014, is the date the proposed GHG standards for performance for new fossil fuel-fired EGUs were published in the Federal Register." *Id.* The proposed rule's approach to applicability appears to be contrary to the requirements of the CAA with respect to establishing a cutoff date between existing and new units. EPA needs to both clarify what the applicability date is and offer a full explanation for its rationale if that date has changed from the January 8, 2014 date.

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[33] See J. Edward Cichanowicz, *Availability and Status of Heat Rate Improvement (HRI) Actions Applicable to Gas Turbines in the Context of the Affordable Clean Energy Rule* (Oct. 2018), submitted as part of the comments of the Utility Air Regulatory Group in Docket No. EPA-HQ-OAR-2017-0355.

No new coal-based steam EGUs have come online since January 8, 2014, which means that the change in applicability date has no practical effect. That is, there are no coal-based units that were considered to be new sources, subject to regulation under CAA section 111(b), that would now instead be considered existing sources, subject to inclusion in a state's section 111(d) compliance plan. However, if coal-based units had been built or started operation during this period, this change in applicability date would have resulted in a significant and unexpected change in applicable performance standards. While not presenting such concerns, this change in applicability date creates uncertainty for other units. For example, if EPA were to find that there are HRI projects that could be determined to be BSER for other units, including NGCCs, this change in applicability date would change the applicable standards for the many NGCCs that were built or started operation since early 2014 and have incorporated the relevant section 111(b) standards into their operating permits. Accordingly, to avoid creating regulatory uncertainty, EPA should clarify what the applicability date is and offer an explanation if it has changed.

V. The Proposed Revisions to The Section 111(d) Implementing Regulations Are Reasonable And Appropriate But Require Clarification and Revision Before Finalization.

EPA proposes to update and amend the CAA section 111(d) implementing regulations to address several issues. Among other things, these include: changes and updates to definitions; updated timing requirements; new completeness criteria and processes for determining completeness; updated public hearing requirements; and an updated variance provision. *See* 83 *Fed. Reg.* at 44,770. As a general matter, these proposed changes and revisions are appropriate. However, EPA should provide some clarifications related to these proposed changes and amendments, as described in more detail below.

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While EPA considers the proposed revisions to the implementing regulations to be a separate and distinct proposal from the ACE rule, *see id.* at 44,783, it is not clear how states and the owners and operators of affected units could begin to devise approvable state plans for submission to EPA without such regulations in place. Accordingly, EPA should finalize these proposed revisions—reflecting the clarifications and revisions discussed below—along with any final ACE rule.

A. Updating the Timing Requirements Related to State Plan Submittals Is Appropriate.

EPA proposes to update the timing requirements in the CAA section 111(d) implementing regulations. These proposed changes would address the timing for the development, submission and review of state plans, as well as EPA's promulgation of federal plans if required. *See* 83 *Fed. Reg.* at 44,771. EPA, in part, is updating the timing requirements to be consistent with those in the CAA section 110 implementing regulations, which govern the development, submission and review of SIPs. Generally, these changes are appropriate given the amount of work states will be required to develop state plans that include unit-specific performance standards based on an assessment of the menu of HRI projects that EPA has determined to be BSER. Further, given the expressly acknowledged relationship between CAA section 110 state implementation plans and state compliance plans under section 111(d),[34] conforming to the timing requirements of section 110 is reasonable. The CAA does not specify any particular compliance timeline for CAA

[34] Section 111(d) states that "the Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 7410 of this title under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for any existing source…" 42 U.S.C. § 7411(d)(1).

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section 111(d) regulations, so providing sufficient time to develop and review complicated state plans is consistent with the Act.

Specifically, EPA is proposing to allow states up to three years, rather than nine months, to adopt and submit their state plan to EPA after promulgation of a final 111(d) emission guideline. *See id.* EPA proposes this change recognizing that there is a tremendous amount of work for a state to develop state plans, especially ones with unit-specific standards. States will need adequate time to work with EGU owners and operators to determine the unit specific standards that will be included in state plans and be enforced against EGUs. Moreover, at least with respect to standards of performance for GHG emissions from existing affected EGUs, additional time for states to develop and submit a state plan is necessary as the proposed rule provides little guidance as to how states should set these standards but requires that significant information about each affected unit be contained in the state plan. *See, e.g.*, proposed 40 C.F.R §§ 60.5735a and 60.5740a. It will take time for states to develop these plans and nine months will not be sufficient. As discussed below, EPA should provide states additional guidance on establishing a unit-specific standard of performance to help states develop approvable state plans.

Likewise, EPA is proposing to allow EPA up to 12 months, rather than four months, after a state submits its state plan to determine whether the plan is complete. *See* 83 *Fed. Reg.* at 44,772. In addition to changing the deadline for EPA to determine the completeness of a state plan, EPA also proposes completeness criteria against which EPA would compare a state's submission to determine completeness. *See id.* at 44,772. The proposed completeness criteria are similar to the completeness criteria under CAA section 110 and therefore reasonable.

Finally, EPA is proposing to allow EPA up to two years, rather than six months, from the date EPA disapproves a state plan—either as a result of determining that a state plan is incomplete or because a state failed to submit a plan—to issue a federal plan. *See id.* at 44,771. This proposed change also is reasonable, as EPA, like the states, will have to conduct a unit-by-unit analysis to establish performance standards for each affected unit that would be addressed in the federal plan. Just as developing a state plan is a time-intensive process, so too is developing a federal plan, therefore allowing EPA up to two years—as is consistent with the timing requirement under CAA section 110—is appropriate. It is expected that states will work closely with affected units when developing compliance plans; EPA should similarly engage the regulated sources should the development of a federal plan be necessary.

B. The Proposed Updates to the Plan Completeness Criteria and Process for Determining Completeness are Appropriate, But Some Required Elements of State Plans Would Require Speculation and the Potential Provision of Confidential Business Information that Could Impact Electricity Markets; EPA Should Revise These Requirements.

EPA proposes to amend the completeness requirements for state plans under CAA section 111(d). *See id.* at 44,772. In general, these amendments would make the section 111(d) completeness requirements more consistent with those for SIPs under CAA section 110, with criteria addressing both administrative materials and technical support. *See id.* The revisions also address how EPA would determine whether a state plan is complete and provide a timeframe for an Agency completeness determination. *See id.* EPA states that these criteria will apply to all CAA section 111(d) plans submitted after these revised regulations are finalized. *See id.*

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In general, the proposed revisions to the regulations addressing completeness are appropriate. Given the statutory mandate that EPA establish a procedure for section 111(d) state plans that is similar to the one provided in CAA section 110 for SIPs, *see* 42 U.S.C. § 7411(d), EPA's determination that the completeness criteria for 111(d) plans mirror those for SIPs makes sense.

However, beyond the general technical support requirements that must be included in order for a state plan to be deemed complete, EPA has proposed a number of additional requirements for state plans that would regulate GHGs from existing fossil fuel-fired electric steam generating units and seeks comment on whether this list is comprehensive (Comment C-46). EPA's concern about comprehensiveness is misplaced. Many of these proposed plan elements are not only overly burdensome for both states and affected units but also require information that cannot be known at the time that the state plans are submitted to EPA and, if known, may constitute confidential business information (CBI) that could have impacts on electricity markets if made public.

For example, EPA proposes to require the following data in state plans:

(4) Your plan demonstration, if applicable, must include the information listed in paragraphs (a)(4)(i) through (v) of this section as applicable.

(i) A summary of each affected EGU's anticipated future operation characteristics, including:

(A) Annual generation;

(B) CO_2 emissions;

(C) Fuel use, fuel prices (when applicable), fuel carbon content;

(D) Fixed and variable operations and maintenance costs (when applicable);

(E) Heat rates; and

(F) Electric generation capacity and capacity factors.

(ii) A timeline for implementation of EGU-specific actions (if applicable).

(iii) All wholesale electricity prices.

(iv) A time period of analysis, which must extend through at least 2035.

(v) A demonstration that each standard of performance included in your plan meets the requirements of § 60.5755a.

Proposed 40 C.F.R. § 60.5740a(a)(4), 83 *Fed. Reg.* at 44,809.

The required inclusion of this information would require states and EGU owners and operators to provide information that, by and large, simply would not be knowable at the time that the state plans were due. For example, it is not possible to know annual generation, related CO_2 emissions, fuel use, fuel prices, O&M, heat rates, capacity factors and all wholesale electricity prices from the time of plan submission through 2035. As discussed in detail above, individual unit's operations are functions of many variables, including electricity demand and the composition of the fleet of EGUs that are available to provide electricity in any given period.

While it may be possible to make predictions about some of these required plan elements, such projections are costly, time consuming and rarely accurate with a degree of certainty required for environmental regulatory planning, particularly at the individual unit level. Electric companies can and do estimate future demand, and they use this information to plan for additional generation sources in the long-term and fuel purchases in the shorter-term. But taking these system projections down to the unit level is problematic. An unexpected forced outage at one unit affects generation at other units. If a nuclear unit cannot run, multiple coal units might be operated, even though their expected operations were low prior to the nuclear outage. This sort of event, with its ripple effects, occurs numerous times over any given year, and the larger the fleet, the more unpredictable the outcome. But of note, none of these changes in generation affect customer demand. So, while electric utilities might accurately enough predict demand and even generation at the system level, predicting individual unit operations years into the future is inherently uncertain.

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However, the proposed regulations do not ask for predictions, they ask for a summary of future operating characteristics, failing to recognize that most of this information will not be knowable at the time that plans are submitted for EPA review. Further, EPA has not provided a reasoned basis for seeking such information and how such information would be useful to EPA in evaluating state plans or the standards of performance for existing EGUs that may be included in state plans. EPA should avoid embarking on any data fishing expeditions.

Potentially more problematic, if some of this information is known at the time of plan submittal, it could constitute CBI, particularly with respect to EGUs that compete to sell power in wholesale electricity markets. Much of the price and expected output information that EPA seeks would be similar to information required to be included in bids to provide energy and other services to wholesale markets. Providing this information in publicly available state plans could have detrimental effects on competition and customers, particularly as it would result in a one-sided dissemination of cost and other sensitive information about units as only coal-based units would be required to make such data public.[35] And it is not sufficient to expect that utilities could protect this information by designating it as CBI. While protection under the Freedom of Information Act (FOIA)[36] may protect its disclosure, not all states provide the same level of protection to sensitive information. For example, North Carolina's robust public records laws protect only "trade secrets," which is defined more narrowly than CBI under FOIA.

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[35] As noted above, EEI is seeking clarification on exactly what types of units would be covered under the proposed rule.

[36] *See* 5 U.S.C. § 5562

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Accordingly, given that EPA has requested detailed information that likely cannot be known at the time state plans are submitted for review (and is certainly unknown for the long timeframes in which EPA seeks data) and that this information, if it could be provided, could negatively affect electricity competition and customers, EPA should withdraw these requirements. EPA has not provided a reasoned basis for requiring that this information be included in state plans or how it would be evaluated, and the burdens and harms from providing this information would far outweigh any benefit related to the ACE rule that EPA could articulate.

C. EPA's Proposed Monitoring Requirements Are Generally Appropriate, But EPA Should Provide States and Units More Flexibility in Recognition of Changing Operations.

EPA proposes that state plans include appropriate monitoring, reporting and recordkeeping requirements to ensure that the plans adequately provide for the implementation and enforcement of the standards of performance for affected units. *See* 83 *Fed. Reg.* at 44,768. To this end, EPA notes that most potentially affected coal-based EGUs already continuously monitor emissions, as well as heat input, and gross electric output, and report this hourly data to EPA under 40 C.F.R. part 75. *See id.* at 44,769. Accordingly, EPA proposes to allow states to use the data collected under part 75 to meet the monitoring, reporting and recordkeeping requirements. *See id.*

As a general matter, it is appropriate to allow states to use part 75 data to satisfy the monitoring, reporting and recordkeeping requirements for CAA section 111(d) compliance plans. Using already collected data to serve multiple purposes is efficient. However, EPA must recognize that part 75 was designed to address the needs of emission trading programs, not performance standards expressed as unit-specific emission rates. To the extent that states use an emission rate

approach in their plans, adjustments to the monitoring and reporting requirements to eliminate periods of substituted data, minor downtime, calibration periods and other invalid data must be allowed.

EPA also should make clear in any final ACE rule that states can use alternative methods to address monitoring, reporting and recordkeeping requirements. For example, states should be permitted to consult with affected EGU owners and operators to determine the most appropriate emissions testing and heat rate measurement methods. States should be permitted to allow units to use alternative methodologies to measure stack air flow as appropriate.

States also should be permitted to allow units to determine heat rate by means other than through reference to continuous emission monitoring system (CEMS) data. There can be significant variation between the heat rate determined using CEMS data and other methods because of as-burned fuel conditions that can affect the heat input of fuel at individual EGUs that may not be reflected in CEMS data, delinking the data from the actual thermal performance of the boiler. For this reason, some owners and operators use a heat balance approach. EPA's final ACE rule should provide states flexibility on how to address monitoring, reporting and recordkeeping so long as they appropriately document and explain the need for any alternative approaches.

D. EPA Should Provide Additional Guidance About the Use of the Proposed Variance Regulations Generally and How to Utilize the Variance Provisions to Address Remaining Useful Life and Other Factors When Establishing a Unit's Standard of Performance Specifically.

Throughout the proposal, EPA identifies a variety of factors that states can consider when establishing standards of performance for affected units. *See, e.g.*, 83 *Fed. Reg.* at 44,766 and 44,773. Specifically, EPA identifies factors laid out in CAA section 111(d)(1)(B), including the

remaining useful life of the unit. *See id.* at 44,766. Consistent with the statutory recognition that setting standards for existing units may require consideration of a range of mitigating factors, EPA proposes revisions to the variance provision in the CAA section 111(d) implementation regulations that would allow states to apply less stringent standards to sources under certain circumstances, regardless of whether standards are health- or welfare-based. *See id.* at 44,773. Revising the existing variance provision in this manner is appropriate and consistent with the direction in CAA section 111(d)(1)(B) that states be allowed to consider remaining useful life and other factors when setting performance standards for existing units.

EPA is clear in the proposed ACE rule that its authority extends to the determination of BSER and that CAA section 111(d)(1) assigns authority to the states for establishing standards of performance for affected existing EGUs. *See id.* at 44,755. Nevertheless, it is appropriate for EPA to guide states on how they might choose to establish standards of performance that EPA will find approvable. Given the unit-specific nature of the proposed BSER, states likely will rely on the proposed variance provision to develop such standards. EPA does not provide guidance to the states as to how to use this variance provision to address the factors enumerated in the statute or any other factors that the state may appropriately consider when setting performance standards and instead seeks comment on how states can use the variance provision to set performance standards for affected units (Comment C-58). In any final rule, EPA should provide such guidance; or, at the time of finalization, EPA should issue guidance to the states that addresses how to use the variance procedure in the regulations. Given that EPA recognizes that a host of unit-specific factors and other unique unit attributes may be relevant when states set performance standards for affected units, there is no need for EPA to enumerate all potential factors that states

could consider (Comment C-23; Comment C-57). Rather, EPA should provide examples of how to consider such factors in setting standards so that states have some guidance as they craft compliance plans but should not be prescriptive about the factors that states could consider. EPA and stakeholders can assess the appropriateness of such considerations when reviewing state plans.

This proposed rule strongly suggests that EPA intends for remaining useful life considerations, which are identified in CAA section 111(d) as a factor in setting standards, to be addressed only through the variance process. *See id.* at 44,766. However, EPA does not provide states any examples on how and to what extent remaining useful life is factored into establishing a standard of performance or how to use the variance provision to factor remaining useful life into the development of a performance standard. To help states develop approvable compliance plans, EPA should provide more specificity regarding how states and sources could consider the remaining useful life of a unit through the variance provision and, accordingly, how to set emissions standards consistent with this analysis. Such guidance could include numeric examples, using hypothetical units, emissions rates and remaining useful life.

VI. EPA's Proposed New Source Review Reforms May Address Potential Deterrents to Undertake HRI Projects to Comply With Section 111(d), But Could Be Severed From This Proposal.

As EPA notes, an affected EGU that undertakes an HRI project for purposes of compliance with a state's CAA section 111(d) compliance plan could trigger NSR permitting requirements under the current applicability test. *See* 83 *Fed. Reg.* at 44,777. NSR permitting can add significant time and expense to such projects and could complicate the development and implementation of

state compliance plans, especially if the only option for compliance is to undertake HRI projects at the affected EGU. To address this, EPA is proposing to amend the NSR regulations to include a new hourly emission increase test for EGUs for determining NSR applicability, with the goal of minimizing the potential to trigger NSR permitting requirements. *See id.* If a final ACE rule provides limited compliance flexibility, as discussed above, reform of the NSR applicability test could further ease compliance, as triggering NSR could deter EGU owners and operators from undertaking necessary HRI projects, with owners instead choosing to close units rather than make investments in units that may not be recoverable.

A. Reform of New Source Review Permitting Requirements Could Address Potential Deterrents to Engaging in HRI Projects at Affected Units.

As a preliminary matter, it is important to note that any increase in the amount of any air pollutant that could be imputed to an HRI project depends on many factors that either cannot be known at the time of permitting or could change over the course of a unit's operations. Despite this, assertions that all HRI projects automatically will cause increased dispatch of any particular unit and result in increased emissions of air pollutants are based on a fundamental misunderstanding of how the power sector operates and are easily disproven. For example, if all units in a given utility's system were to undertake an HRI in the same year, it is not reasonable to assume that each would operate more than previously, because the system operates to meet customer demand, which is not affected by the HRI projects. Moreover, as the HRI projects are more likely staggered over several years, even if a unit operated more the year following its HRI, in subsequent years its improved efficiency would deteriorate, while other units undertaking HRI project would have improved performance.

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Because electricity must be supplied in real time to meet demand, EGUs cannot unilaterally decide to increase production; there first must be an increase in demand or a reduction in other required generation, such as a baseload unit outage. While an HRI project may decrease an EGU's total fuel costs, these projects involve capital expenditures that could increase a unit's marginal cost. As a result, an HRI project does not necessarily make a unit more competitive per se and cannot be said to result automatically in increased dispatch and increased emissions.

In some cases, EGUs may forgo efficiency improvements to avoid triggering NSR permitting requirements. NSR pre-construction permitting requirements can require costly, detailed analyses and result in permitting delays; in some cases, they also result in costly and protracted litigation, as well as expensive new emission control requirements that also create additional time delays for projects. Indeed, many unit owners and operators undertake HRI projects and other efficiency improvement efforts when addressing other unit upgrades that already have triggered NSR permitting so as to avoid a second round of permitting review just for these projects. Accordingly, addressing NSR applicability could facilitate compliance with CAA section 111(d) state plans.

If EPA chooses to finalize the proposed revisions to the NSR applicability test and related regulations, EPA should not limit the new approach only to those units that are undertaking HRI projects for purposes of CAA section 111(d) compliance or otherwise limit the new approach based on geography or pollutant (Comment C-62). Such limits would discourage HRI projects. For example, a limit on the new approach that tied it exclusively to CAA section 111(d) compliance is potentially problematic as it is not clear at this time how states will design

compliance plans or choose to measure compliance. As discussed above, HRI projects degrade over time. It is not clear whether future investments to address this degradation would be considered to be for the purposes of CAA section 111(d) compliance, potentially subjecting EGUs to different tests for applicability over the life of the same HRI project. With respect to potential geographical limits, the record provides no grounds on which to reasonably differentiate between units in different parts of the country, particularly as ACE would apply to all affected units, regardless of location. Finally—with respect to pollutants—any effort to encourage HRI projects to comply with CAA section 111(d) or help states develop compliance plans would be undermined if all regulated NSR pollutants were not covered by the proposed new approach to determining NSR applicability.

B. Additional Compliance Flexibility Might Obviate NSR Concerns Related to Section 111(d) and Is Consistent with EPA's Goals in Proposing NSR Reform.

The proposed ACE rule, as currently drafted, requires states to establish unit specific standards and provides minimal compliance flexibility to meet those standards. *See id.* at 44,748. This means that EGU owners and operators would either have to comply with the performance standard and risk triggering NSR permitting requirements and the additional attendant costs and delays by undertaking HRI projects; face potential non-compliance; or engage in unit closure. While EPA's proposal does grapple with some of these challenges through the proposed NSR revisions, these challenges would remain if the revised applicability test is not finalized or does not survive legal challenge. As discussed above, EPA should authorize states to consider additional compliance flexibilities in order to achieve environmental performance in the most cost-effective manner. Additional flexibilities could potentially reduce the number of EGU owners who may trigger NSR permitting requirements in connection with compliance with the proposed ACE rule because there would be options, other than unit-specific HRI projects, for

compliance. Further, authorizing states to consider a range of compliance flexibility in state plans, beyond those that could be undertaken strictly at the source, is consistent with EPA's stated goals for amending the NSR applicability test: providing states with options for efficient and effective compliance. *See id.* at 44,776-777.

C. EPA Could Sever the Proposed NSR Revision and Finalize It Separately from the ACE Proposal.

As discussed, the NSR permitting program and the proposed ACE rule are related to one another in that compliance with ACE could trigger NSR; however, they are ultimately separate and distinct programs. As EPA notes, the Agency views the proposed ACE rule as "appropriate policies in their own right and on their own terms" and intends the proposed NSR revisions to be severable upon judicial review. *See* 83 *Fed. Reg.* at 44,783. Accordingly, EPA could finalize the proposed NSR changes separately from the finalization of the ACE rule (Comment C-71).

A separate approach may make sense, particularly if the proposed changes to the NSR program would not be limited to units engaging in HRI to comply with an 111(d) standard and would instead be more broadly applicable. This would allow legal challenges to one proposal to proceed without necessarily delaying the other. Given that the section 111(d) state plans likely would not be due to EPA for review until 2022 at the earliest, there is sufficient time to move the two proposals separately, while still ensuring that the intended goals of the amendments to the NSR program—addressing the concerns about the potential effects of these permitting requirements on HRI projects—is accomplished in a timely fashion.

ED_002480_00057287-00043

Message

From: JW Hackett [Ex. 6]
Sent: 10/15/2018 9:34:51 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Wehrum, Bill [Wehrum.Bill@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Re: telephone call

I am available at that time. My mobile number is [Ex. 6]

On Mon, Oct 15, 2018 at 4:29 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:
I'm on a plane then but I've spoken with each of your individually. If 5:30 tomorrow works for you please do.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 15, 2018, at 3:47 PM, Wehrum, Bill <Wehrum.Bill@epa.gov> wrote:

> How about 5:30 eastern tomorrow (Tuesday) afternoon? What is the best number for us to call you?
>
> _____
> Bill Wehrum
> Assistant Administrator
> Office of Air and Radiation
> U.S. Environmental Protection Agency
> (202) 564-7404
>
> On Oct 11, 2018, at 9:56 PM, JW Hackett <[Ex. 6]> wrote:
>
>> Does Friday afternoon or Monday-Wednesday after 3 pm EST work well? That said - I will make myself available at whatever time is convenient for the group.
>>
>> Best Regards,
>>
>> J.W.
>>
>> On Thu, Oct 11, 2018 at 2:50 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> I wanted schedule a call among us.

I have spoken with JW about joining EPA in the Kansas City office, but wanted to explore taking advantage of his background with REG to actually take on responsibilities speaking and meeting with different renewable fuel stakeholder groups especially in Region 7 and build that into his portfolio. Since this is the OAR space, I wanted to ensure we have talked through it with everyone. Can we get some times which may be convenient to set up a call?

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(202) 564-6999

Message

From: The Well News [press@thewellnews.com]
Sent: 10/31/2018 11:11:43 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Kennedy & Trump, Polling, Campaign Updates and Penguins

Kennedy & Trump, Polling, Campaign Updates and Penguins

PRESENTED BY STAND WITH PARKLAND

Straight from The Well

Wednesday, October 31, 2018

Read to the end of this email to find out how a same sex penguin couple had a baby.

Missing the Moment

Commentary by Sean O'Brien

Fifty years ago, Bobby Kennedy asked the crowd of young African American activists to lower their campaign signs. He paused. He told them that Dr. Martin Luther King, Jr. was dead. He listened to their anguished cry. Then he asked them to work for peace.

I found myself thinking of Kennedy's remarkable speech when I read of our President's reaction to the mass shooting of 11 people in a Pittsburgh synagogue.

Read More

VOTERS DEEPLY FRUSTRATED BY HEALTH COSTS, TRANSPARENCY

New Health Care Poll

In the final stretch before Election Day, a new survey by Ipsos and Consumers for Quality Care (CQC) found that voters are deeply frustrated by unpredictable costs and the lack of transparency in health care. Health care consistently factors into the top issues facing voters in a wide variety of issue-based polls. The top item Americans reported as most frustrating about health care are hospital fees and unexpected bills (74 percent).

"Information is power, and consumers are hungry for a better understanding about how consumer costs are determined in the health care realm," said CQC Board Member Scott Mulhauser. "The consensus on prioritizing transparency and predictability transcends political parties. Consumers and families are particularly eager for more clarity...so they can make better decisions and avoid getting hit with surprise bills and fees." Read more.

On the Trail: Countdown to the Midterms

By Erin McPike, Swann Street Strategies

Virginia Lt. Gov. Justin Fairfax is barnstorming the country to boost Democratic lieutenant governor candidates - going so far as Hawaii earlier this month to campaign with state Sen. Josh Green.

Fairfax relaunched the Democratic Lieutenant Governors Association over the summer to help his party win more statewide races and build a farm team of Democrats around the country. While there are just 13 Democratic lieutenant governors in office today, the party is poised to pick up nearly a dozen LG seats on November 6.

Democrat lieutenant governors are set to come roaring back in the Midwest, gain ground in the West, and post upsets in the South. Read more.

About Stand With Parkland

MISSION STATEMENT

Stand with Parkland is a national organization representing American families. We are committed to advocating for practical public safety reforms focused on the safety of our children and staff at school, improved mental health support, and responsible firearms ownership. Personal responsibility and a desire for change are paramount to this effort, and it is the people involved at all levels that will make these goals a reality. Violence in our schools affects everyone. It is an American epidemic, and it is time that we all come together to do something about it.

Candidate Profile: Mikie Sherrill

New Jersey's 11th Congressional District

After graduating from the United States Naval Academy in 1994, Mikie spent almost 10 years on active duty in the United States Navy. She flew missions throughout Europe and the Middle East as a Sea King helicopter pilot. Mikie worked on the Battle Watch Floor in the European Theater during the Iraq invasion, and served as a Flag Aide to the Deputy Commander in Chief of the U.S. Atlantic Fleet. She also served as a Russian policy officer.

View Profile

MIDTERMS 2018

Polling and Ads: Battleground Polls Update

NATIONAL

President Trump Job Approval:
Approve 48, Disapprove 51 (Rasmussen Reports,10/30)

SENATE

Arizona Senate:
Sinema (D) 50, McSally (R) 44 (NBC News/Marist, 10/30)
Florida Senate:

- Nelson (D) 45, Scott (R) 43 (USA Today/Suffolk, 10/30)
- Nelson (D) 47, Scott (R) 46 (UNF, 10/30)

Montana Senate:
Tester (D) 48, Rosendale (R) 45 (Gravis, 10/30)
North Dakota Senate:
Cramer (R) 54, Heitkamp (D) 45 (Trafalgar Group, 10/30)
Ohio Senate:
Brown (D) 49, Renacci (R) 43 (Emerson, 10/30)
Tennessee Senate:
Blackburn (R) 51, Bredesen (D) 46 (NBC News/Marist, 10/31)
Texas Senate:
Cruz (R) 52, O'Rourke (D) 42 (CBS 11/Dixie Strategies, 10/30)

HOUSE

CA-50: Hunter (R) 48, Campa-Najjar (D) 45 (KGTV-TV/SurveyUSA, 10/30)
KS-02:

- Davis (D) 41, Watkins (R) 37 (NYTimes/Siena, 10/31)
- Watkins (R) 48, Davis (D) 41 (Emerson, 10/30)

MT-At Large: Gianforte (R) 48, Williams (D) 48 (Gravis, 10/30)
NC-02: Holding (R) 49, Coleman (D) 40 (Civitas/SurveyUSA, 10/30)
NC-09: Harris (R) 45, McCready (D) 44 (NYTimes/Siena, 10/31)
NY-19: Delgado (D) 49, Faso (R) 44 (Monmouth, 10/30)
PA-01: Fitzpatrick (R) 47, Wallace (D) 46 (NYTimes/Siena, 10/30)
PA-10: Perry (R) 49, Scott (D) 46 (Susquehanna, 10/30)
UT-04: McAdams (D) 50, Love (R) 43 (KUTV/Dixie Strategies, 10/30)

GOVERNOR
Connecticut Governor:
Lamont (D) 47, Stefanowski (R) 43 (Quinnipiac, 10/30)
Florida Governor:

- Gillum (D) 45, DeSantis (R) 44 (USA Today/Suffolk, 10/30)
- Gillum (D) 49, DeSantis (R) 43 (UNF, 10/30)

Georgia Governor:
Kemp (R) 47, Abrams (D) 48 (Fox 5 Atlanta/Opinion Savvy, 10/30)
Kansas Governor:
Kobach (R) 44, Kelly (D) 43, Orman (I) 8 (Emerson, 10/30)
Ohio Governor:
Corday (D) 49, DeWine (R) 46 (Emerson, 10/30)
Oregon Governor:
Brown (D) 47, Buehler (R) 42 (Emerson, 10/30)

For full polls recap for October 28-31, visit our website.

IN THE NEWS

- Legal Scholars Dismiss Trump's Plan to Challenge 'Birthright Citizenship'
  By David G. Savage
- FBI Asked to Investigate Allegations Women Were Offered Cash to Accuse Robert Mueller of Sexual Assault
  By Chris Sommerfeldt
- The 'Safe Surrogate,' Pence Delivers the Traditional GOP Message Trump Won't
  By Anita Kumar

EVERY DAY IS SOME DAY

Source: National Day Calendar

History of Halloween

Dating back to an ancient pagan harvest festival marking the end of summer and beckoning the beginning of winter, seasons overlapped during Samhain (pronounced sah-win) and revelers believed the worlds of the living and the dead crossed. To interact with the spirits, the living would wear costumes and light bright bonfires to help protect them. Through the Colonial era in America, Halloween celebrations were considered taboo due to religious beliefs. By the Victorian era, though, Halloween traditions featured fall festivals, parties and foods involving communities and neighborhoods.

NEWS YOU CAN'T USE

Source: IFLScience!

A Same-Sex Penguin Couple In Australia Just Became Parents To A Baby Chick

The Well News, 777 6th Street, NW, Washington, DC, 20001
Unsubscribe

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 10/16/2018 1:35:36 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: Carper letter on cars
Attachments: 10-16-18TCtoEPADOTcars.pdf

Good morning

Please see the attached,

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

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RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

October 16, 2018

The Honorable Elaine L. Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20530

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1301 Constitution Ave. NW
Washington, DC 20460

Dear Secretary Chao and Acting Administrator Wheeler:

I write to strongly urge you to reverse course on your August, 2018 proposal to dramatically weaken future vehicle fuel economy and greenhouse gas tailpipe standards. The proposal, which is currently out for public comment, also seeks to remove California's authority to set and enforce its own greenhouse gas tailpipe standards (as well as the authority of the 12 additional states, including Delaware, which have adopted them). The proposal wrongly asserts that California's authority is preempted by law.

As I noted in my May, 2018 correspondence[1] regarding an earlier version of the draft rule that my office received, your proposal, if finalized, would harm U.S. national and economic security. It would also undermine efforts to combat global warming pollution, create regulatory and manufacturing uncertainty for the automobile industry and unnecessary litigation, and increase the amount of gasoline consumers would have to buy.

In past months, I have urged you both repeatedly to work to negotiate a 'win-win' solution on federal fuel economy and greenhouse gas tailpipe standards that can be supported by both the automobile industry and the State of California. President Trump[2], the automobile industry[3] and the State of California[4] have also indicated that they support such an approach.

Regrettably, your proposed vehicle standards do not seem to reflect the almost universally-shared view that a consensus approach is within reach and should be pursued. Moreover, the pending proposal is rife with seemingly unlawful assertions and erroneous assumptions. Specifically, the proposal makes the inaccurate assertion that the 'maximum feasible' fuel economy and tailpipe standards can legally be frozen for the better part of a decade, bases its

[1] https://www.carper.senate.gov/public/index.cfm/2018/5/carper-calls-on-chao-pruitt-to-abandon-draft-proposal-to-weaken-fuel-economy-and-tailpipe-emissions-standards
[2] https://www.cbsnews.com/news/trump-hopes-to-negotiate-with-california-on-fuel-standards/
[3] https://www.reuters.com/article/us-autos-emissions/major-automakers-urge-trump-not-to-freeze-fuel-economy-targets-idUSKBN1I821P
[4] https://www.reuters.com/article/us-autos-emissions/california-regulator-sees-window-for-deal-on-fuel-economy-rules-idUSKBN1JZ2TS

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safety analysis on a model that in no way reflects real-world driving or consumer behavior, artificially inflates the costs and minimizes the benefits of fuel-efficient technologies that are currently being used by automobile manufacturers, and fails to follow statutorily mandated requirements and procedures.

In fact, in comments submitted to the Department of Transportation and the White House Office of Management and Budget (OMB), EPA observed[5] that "EPA analysis to date shows significant and fundamental flaws in CAFE model… These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards."

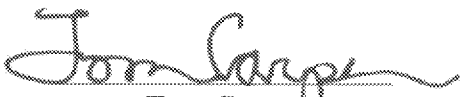
I have attached a non-exhaustive list of some of the most significant deficiencies in your Agencies' proposal. As you work to evaluate public comments, I want to underscore the consequences that could result if these deficiencies are not addressed in a final rule – which include precisely the sort of litigation and regulatory uncertainty the automobile industry wishes to avoid. Moreover, a likely outcome of that litigation is that courts will overturn NHTSA's proposed model year 2021-26 fuel economy standards, leaving no fuel economy standards whatsoever in place starting in model year 2022, and will additionally overturn EPA's proposed modifications to its existing model year 2021-26 tailpipe standards, leaving the current, more stringent EPA tailpipe standards in place. This appears to be the opposite of the outcome this Administration has said it wants.

I have spent considerable time over the past year talking frequently and extensively with automobile manufacturers, suppliers, officials representing the State of California, and other stakeholders. I remain convinced that an agreement is well within reach that would provide near-term flexibility and predictability for the auto industry, more rigorous standards going forward, and continued compliance flexibilities and incentives to develop electric and other advanced technology automobiles, all while avoiding years of unnecessary litigation with California and others. I urge you to abandon your current approach and do all that you can to support efforts to identify and finalize a 'win-win', consensus approach.

Thank you very much for your attention to this important matter. If you have any questions or concerns, please contact me directly or have your staff contact Michal Freedhoff of the Environment and Public Works Committee staff, at 202-224-8832.

With best personal regards, I am,

Sincerely yours,



Tom Carper
Ranking Member

[5] See the June 18, 2018 email from William Charmley which can be accessed at https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453

Attachment 1

A non-exhaustive list of significant deficiencies in the proposed rules that, if finalized, could leave the rules vulnerable to legal challenge.

1. **Freezes the standards for almost a decade:** The Energy Policy and Conservation Act, as modified by the Energy Independence and Security Act, requires NHTSA to set the 'maximum feasible' fuel economy standard each year[6]. The Trump Administration's 'preferred alternative' freezes the stringency of the fuel economy standards in place from model years (MYs) 2020-26. Historic data (Attachment 2) shows that the fuel economy of the fleet has increased by 2-2.5 percent per year since the Bush Administration began increasing fuel economy standards for light duty trucks in 2005. It is simply implausible that the 'maximum feasible' fuel economy standard required under NHTSA's statute could legally be left unchanged for seven model years. Moreover, because the Notice of Proposed Rulemaking (NPRM) seeks to eliminate EPA's compliance credits for automakers that switch to less polluting air-conditioning refrigerants, the proposal effectively freezes the stringency of EPA's standards for almost nine model years[7].

2. **Ignores the statutory requirement to consider the need to conserve energy:** The law[8] states that when setting fuel economy standards, the Secretary of Transportation is required to consider "the need of the United States to conserve energy." This is a core tenet of the Energy Policy and Conservation Act, as modified by the Energy Independence and Security Act. Despite this explicit mandate, NHTSA proposes to abandon or minimize this consideration, stating that: "Given the discussion above, NHTSA tentatively concludes that the need of the U.S. to conserve energy may no longer function as assumed in previous considerations of what CAFE standards would be maximum feasible....The world has changed, and the need of the U.S. to conserve energy, at least in the context of the CAFE program, has also changed." Contrary to NHTSA's statutory fuel conservation mandate, the proposed rule would increase fuel consumption by about half a million barrels per day.[9]

3. **Relies on modeling of driver habits that contains documented errors and yields conclusions which defy common sense, distorts projections of regulatory impact, and lacks credibility.** NHTSA is required by law to consider economic practicability when it is setting fuel economy standards.[10] As part of this analysis, NHTSA developed a new and not-yet-peer-reviewed module for predicting consumer behavior. The module essentially assumes stronger fuel economy standards depress new car sales and keep more old cars on the road. Despite repeated corrections by EPA that are recorded in the docket, the NHTSA module projects that each new vehicle sale that is deferred results in many more old cars staying on the road, driving billions more miles than the new

---

[6] 49 U.S.C. 32902(a)

[7] See Table I-3 of the NPRM, which shows that the tailpipe standard for MYs 2021-26 is proposed to be approximately the same as that for MY 2018.

[8] https://www.law.cornell.edu/uscode/text/49/32902

[9] NPRM, p. 42986

[10] 49 U.S.C. 32902(f) (2007) (discussed in NPRM, p. 42306)

vehicles themselves otherwise would have – a pattern that defies common sense. Because additional vehicle miles traveled (VMT) correlate to both emissions increases and roadway fatalities, these implausible modeling results distort the regulatory impact analysis and render its results virtually meaningless as a basis for the statutorily required economic analysis. Indeed, the NPRM concludes that leaving the more stringent standards in place would lead to 12,700 additional deaths by MY 2029,[11] 6,180 of them attributable to this new module. However, materials in the rulemaking docket[12] indicate that EPA believes this NHTSA module is fundamentally flawed, cannot be relied upon to justify the proposed rollback, and that EPA repeatedly brought these deficiencies to NHTSA's attention. Specifically:

- According to EPA's analysis, NHTSA's module predicts that if the current standards are left unchanged, there will be a 15-20% increase in registered vehicles because so many old cars will stay on the road – a conclusion that cannot be explained by any real-world policy or projection.
- According to EPA's analysis, NHTSA's module predicts that the current, more fuel-efficient, standards would result in 8,000 *new* vehicles that consumers would not purchase each year (because they would be too costly), and also result in an additional 512,000 *used* vehicles remaining on the road each year, a phenomenon that appears to be a fictitious creation of the module that has no real-world explanation.
- According to EPA's analysis, NHTSA's module predicts an unexplained 10-15% increase in vehicle miles traveled (VMT) if the standards remain unchanged. Specifically, the module predicts people will drive an extra almost 700 billion miles in model years 1977-2029 vehicles, with no real-world explanation for why that would be[13].
- The exaggerated estimates of vehicle miles traveled are magnified by a factor called the 'rebound effect,' to which NHTSA attributes 6,340 of the 12,700 additional deaths that would result if the current standards are left unchanged. This factor assumes that because fuel-efficient cars are cheaper to use, people will drive more. The NPRM assigns a value of 20 percent to the 'rebound effect' (meaning 20 percent more driving by consumers in more fuel-efficient vehicles) – twice the value that both EPA and NHTSA have determined to be appropriate since 2010, and absent any justification for departing from its past practice.[14] EPA also found flaws in the application of the rebound factor, noting[15] that NHTSA's model wrongly predicts *less* driving associated with more stringent standards when the rebound effect was set to 20 percent than when it was kept to 0 percent, which is the opposite of what would be expected in the real world. This

[11] Table II-73 of the NPRM
[12] See for example the June 18, 2018 email from William Charmley which can be accessed at https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453
[13] Table VI-88 of the NPRM,
[14] See for example the June 18, 2018 email from William Charmley which can be accessed at https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453
[15] See for example the June 18, 2018 email from William Charmley which can be accessed at https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453

once again undermines the credibility of NHTSA's modeling results as a basis for legally justifying a regulatory decision.

4. **Ignores industry data on automobile safety**: Safety analysis has always been an important component of the balance that NHTSA seeks to achieve when setting fuel economy standards. Of the 12,700 additional deaths the NPRM states will occur if the currents standards are left unchanged,[16] 160 of them are attributed to 'mass changes'. This means that as vehicles are light-weighted to comply with more stringent standards, NHTSA believes that more people will die as a result of traffic accidents that occur in these lighter vehicles. Although the proposal notes that reducing the mass of light trucks generally improves the fleet's overall safety, it does not note that a recent study disproves[17] the argument that fuel economy standards result in more traffic fatalities in the first place. The proposal additionally fails to incorporate other industry[18] analysis[19] that shows that most of the mass reductions the industry is undertaking to improve fuel economy is being planned to occur in light trucks (which therefore, even by NHTSA's own flawed argument, should be projected to result in an overall *reduction* in traffic fatalities).

5. **The NPRM ignores premature deaths due to increased air pollution that are presented within their own environmental study:** Even NHTSA's contorted modeling shows that freezing fuel economy standards would increase air pollution, since vehicles that use more gasoline also emit more toxic air pollutants. Table 4.2.3.1 of the Draft Environmental Impact Statement[20] on the proposed rule shows that there will be as many as 299 premature deaths associated with freezing the standards from MYs 2020-26 by 2050. These additional deaths relative to the current standards are not factored into the total fatalities contained in Table 11-27 of the NPRM, and do not appear to be included in the analysis used to justify freezing the standards.

6. **Uses inaccurate and/or disputed cost, technology and compliance data that undermine the statutorily mandated analysis of 'technological feasibility'**: Another factor that NHTSA is required to consider when setting standards under the law is "technological feasibility."[21] Two years ago, NHTSA claimed there would be nearly $100 billon of net societal benefits[22] associated with maintaining the current standards, while now it claims that keeping these rules will lead to about $200 billion of net societal costs[23]. In its extensive comments[24] to NHTSA and OMB prior to the release of the proposed rule, EPA repeatedly highlighted examples of problematic cost, technology and

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[16] Table II-73 of the NPRM
[17] https://www.washingtonpost.com/news/energy-environment/wp/2017/05/03/scientists-just-debunked-one-of-the-biggest-arguments-against-fuel-economy-standards-for-cars/?noredirect=on&utm_term=.b872ce952443
[18] http://www.drivealuminum.org/wp-content/uploads/2018/08/Mass-Reduction-Chart.pdf
[19] http://www.drivealuminum.org/wp-content/uploads/2017/10/Ducker-Public_FINAL.pdf
[20] https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld_cafe_my2021-26_deis_0.pdf
[21] NPRM, 42306
[22] https://nepis.epa.gov/Exe/ZyPDF.cgi/P100OXEO.PDF?Dockey=P100OXEO.PDF page 13-103
[23] Table I-4 of the NPRM
[24] See for example the June 18, 2018 email from William Charmley which can be accessed at https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453

compliance assumptions made by NHTSA, most, if not all of which, do not seem to have been remedied in the proposed rule. All of these assumptions result in an over-estimation of the current, more fuel-efficient standards' costs, and an under-estimation of their benefits. If these assumptions are not remedied in the final rule, litigation could be filed on the grounds that each or all of them are arbitrary and capricious. Some examples of these flaws include:

- EPA observed that NHTSA over-estimated the costs of some fuel-efficient technologies compared to their current, real-world costs and use. For example, EPA noted that NHTSA assigned a cost of Dynamic Cylinder Deactivation that "is 2-4 times higher than industry quoted costs for the version of the technology which is going into production in MY2019," observing that the high costs lead to a prediction that this technology will not be implemented *at all* under its 'preferred alternative,' even though GM is offering the technology in the MY 2019 Silverado which will be available for sale in late 2018. EPA believes that existing plans to use this technology will likely result in its inclusion in "well past 4.4%" of the new vehicles sold in the MY2019-2022 timeframe. In another example, EPA notes that NHTSA assumes that the cost of batteries for hybrid and plug-in vehicles is in most cases 20-40% more expensive than would be expected using Department of Energy projections.
- EPA told NHTSA and the White House Office of Management and Budget that the NHTSA model uses the most expensive technology packages available to meet the standards, which overestimates the most cost-effective ways to do so by $1-2,000 per vehicle. For example, NHTSA's assumptions about which types of hybrid technology to include in its model results in "strong hybrid packages that are significantly higher costs [sic] and less effective than the vast majority of real-world implementations."
- EPA identified NHTSA's omission of the benefits of some fuel-efficient technologies entirely, along with errors in the values NHTSA assigned to others. For example, 'start/stop' technology, which causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), was estimated by NHTSA to have a negative effect on fuel-efficiency in some scenarios, which is simply not plausible. In another instance, EPA observed that the most advanced eight-speed transmission technologies are assigned unrealistically low fuel-efficiency effectiveness values for some vehicle types. EPA also noted that the more expensive version of an engine technology (TURBO2), which would be expected to be more fuel-efficient, was instead assigned a negative fuel-efficiency value for some types of vehicles in NHTSA's model. Additionally, an existing engine technology called cooled exhaust gas recirculation (CEGR1), which has been demonstrated in the market to significantly reduce carbon dioxide emissions, was assigned a fuel-efficiency effectiveness of at or near zero for nearly all of the options modeled by NHTSA.
- EPA also called out NHTSA's decisions to omit the existence of technologies that provide a significant improvement to fuel economy that are currently deployed in the marketplace, such as the Atkinson engine. EPA observed that with "Mazda applying the technology to the majority of their current vehicles, and Toyota

announcing its plan for at least 60 percent application (by volume) by 2021," it was unrealistic that the NHTSA model does not even project the inclusion of this technology in *future* compliance modeling scenarios of the companies that use the technology *today*.

- EPA also noted that NHTSA did not appear to recognize that the Clean Air Act allows trading of compliance credits between a company's car and truck fleets, which most companies currently and regularly engage in. This failure had the effect of driving compliance costs up since it assumes that a company would need to purchase credits from other companies rather than transfer credits from (for example) its over-compliant car fleet to its under-compliant truck fleet. According to EPA, the model also "inappropriately applies the credit cap (10g/mi) separately to each manufacturer's car and truck fleets" rather than the combined fleet as allowed for in the regulations.

7. **Relying on preemption analysis that has been rejected by courts**: The NPRM states that "States may not adopt or enforce tailpipe greenhouse gas emissions standards when such standards relate to fuel economy standards and are therefore preempted under EPCA [Energy Policy and Conservation Act], regardless of whether EPA granted any waivers under the Clean Air Act (CAA)." It additionally concludes that "the California ZEV [zero-emissions vehicle] mandate is expressly and impliedly preempted by EPCA." These assertions are starkly contradicted by the body of case law interpreting the interplay between EPCA, CAA[25], State waivers under the CAA, and the legislative history of both acts. That history affirms that EPCA's preemption provisions simply do not apply to pollution standards applicable to new motor vehicles, including greenhouse gas pollution standards, set by EPA or by California acting pursuant to a Clean Air Act waiver. The document also does not cite the clear Congressional intent on this point expressed by three of the principal[26] authors[27] of the fuel economy provisions of EPCA during their December, 2007 consideration on the House and Senate Floors that also refute the preemption proposal's premise.

8. **Unprecedented attempt to revoke California's waiver to set standards:** The NPRM also proposes to revoke the waiver California received under section 209 of the Clean Air Act to enforce its own light duty vehicle and zero-emissions vehicle standards, although EPA has never before revoked any of the more than 100 such waivers that have been granted.[28] The NPRM invokes all three statutory criteria that could be used to deny a waiver, namely that "EPA finds that California's determination that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal

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[25] See for example *Massachusetts v. E.P.A.*, 549 U.S. 497, 532 (2007), which stated that the two statutory directives "may overlap, but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency", and *Central Valley Chrysler-Jeep, Inc. v. Goldstene*, 529 F. Supp. 2d 1151, 1177 (E.D. Cal. 2007); *Green Mountain Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F. Supp. 2d 295 (D. Vt. 2007), which both held that EPCA does not preempt California's standards.

[26] https://www.gpo.gov/fdsys/pkg/CREC-2007-12-06/pdf/CREC-2007-12-06-pt1-PgH14434-2.pdf. See page 10 for the remarks of then-Congressman Edward. J. Markey

[27] https://www.gpo.gov/fdsys/pkg/CREC-2007-12-13/pdf/CREC-2007-12-13-pt1-PgS15385.pdf. See page 2 for the remarks of Senator Feinstein and the late Senator Inouye

[28] https://www.nrdc.org/experts/irene-gutierrez/baseless-threats-californias-clean-car-waiver

standards, is arbitrary and capricious; that California does not need its own standards to meet compelling or extraordinary conditions; or that such California standards and accompanying enforcement procedures are not consistent with Section 202(a) of the CAA." Since the NPRM proposes to freeze federal standards between MYs 2020-26, it is difficult to understand how a determination that California's stronger standards would be more protective of public health and welfare could be arbitrary and capricious. No scientific or other evidence was provided to refute EPA's 2009 approval[29] of California's waiver application, which acknowledged the "adverse impact that climate change may have on local ozone conditions" as well as "the evidence submitted concerning the observed and projected impacts of global climate change in California and other states" when it determined that the conditions the California standards were intended to meet constituted compelling and extraordinary conditions. Finally, as noted in the above section, several court decisions have informed the question of whether fuel economy standards, EPA tailpipe standards and California's separate standards can co-exist free of conflict, as they have since 2009.

9. **EPA did not draft its own proposed rule, which may be unlawful:** Numerous reports have indicated that EPA provided almost no input into this proposal, which was written largely by NHTSA. One recently retired EPA official stated that "EPA staff had basically nothing to do with that entire document and analysis,[30]" and another current EPA official asked[31] that EPA's logo be removed from the document to reflect that fact. Not only is this a dramatic departure from past inter-agency processes, it is also likely illegal, as courts[32] have[33] repeatedly[34] ruled that agencies can use external input and advice when writing regulations under their own statutory authorities, but must write the regulations themselves.

10. **NHTSA failed to include a reasonable range of regulatory alternatives as mandated by the National Environmental Policy Act:** The range of alternative standards that were analyzed in NHTSA's Draft Environmental Impact Statement depart from past practice, because they do not appear to include a reasonable range of alternative rulemaking options. In fact, none of the alternatives analyzed are more stringent than the current (augural) standards. This also poses a legal vulnerability. In 1981, the Council on Environmental Quality published in a memorandum to agencies that addressed how alternatives should be selected,[35] saying that the range examined should include "the full spectrum of alternatives". It uses as an example a proposal to designate wilderness areas within a National Forest from 0 to 100 percent of the forest and states that "An appropriate series of alternatives might include dedicating 1, 10, 30, 50, 70, 90 or 100

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[29] https://www.gpo.gov/fdsys/pkg/FR-2009-07-08/pdf/E9-15943.pdf
[30] https://www.eenews.net/stories/1060091981
[31] https://www.washingtonpost.com/energy-environment/2018/08/15/trump-administration-said-weaker-fuel-standards-would-save-lives-epa-experts-disagree/?utm_term=.21f0b9849f67
[32] *U.S. Telecomm v. FCC*, 359 F. 3d 554, 567-68 (D.C. Cir. 2004)
[33] See the illustrative discussion in *Coalition for Responsible Regulation v. EPA* regarding EPA's use of the IPCC reports in crafting the endangerment finding at 684 f 3d at 120
[34] Ergon-West Virginia, Inc. v. EPA, No. 17-1839 (4th Cir. 2018)
[35] https://www.energy.gov/sites/prod/files/G-CEQ-40Questions.pdf

percent." The document goes on to explain that reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. Several[36] court[37] decisions[38] have opined on this 'reasonableness' test and required a broader range of alternatives to be required for consideration by agencies that were found to have unlawfully constrained them.

[36] Sierra Club v Marsh, 714 F. Sup. 539 (1989)
[37] Calvert Cliffs' Coordinated Committee v. Atomic Energy Commission, 449 F.2d 1109 (D.C. Cir. 1971), cert. denied, 404 U.S. 942 (1972)
[38] Natural Resources Defense Council v. Morton, 458 F.2d 827 (D.C. Cir. 1972)

Attachment 2 – Historic Tailpipe Performance of Cars and Trucks (not including advanced technology vehicle, air conditioning off-cycle or other compliance flexibilities)

Tailpipe efficiency improvement for cars and trucks combined			
Year	EPA Unadj., Lab (MPG)	NHTSA CAFE (MPG)	Actual tailpipe improvement over prior year
1975	15.3	N/A	
1976	16.7	N/A	9.15%
1977	17.7	N/A	5.99%
1978	18.6	19.9	5.08%
1979	18.7	20.1	0.54%
1980	22.5	23.1	20.32%
1981	24.1	24.6	7.11%
1982	24.7	25.1	2.49%
1983	24.6	24.8	-0.40%
1984	24.6	25.0	0.00%
1985	25.0	25.4	1.63%
1986	25.7	25.9	2.80%
1987	25.9	26.2	0.78%
1988	25.9	26.0	0.00%
1989	25.4	25.6	-1.93%
1990	25.2	25.4	-0.79%
1991	25.4	25.6	0.79%
1992	24.9	25.1	-1.97%
1993	25.1	25.2	0.80%
1994	24.6	24.7	-1.99%
1995	24.7	24.9	0.41%
1996	24.8	24.9	0.40%
1997	24.5	24.6	-1.21%
1998	24.5	24.7	0.00%
1999	24.1	24.5	-1.63%
2000	24.3	24.8	0.83%
2001	24.2	24.5	-0.41%
2002	24.1	24.7	-0.41%
2003	24.3	25.1	0.83%
2004	24.0	24.6	-1.23%
2005	24.8	25.4	3.33%
2006	25.2	25.8	1.61%
2007	25.8	26.6	2.38%
2008	26.3	27.1	1.94%
2009	28.2	29.0	7.22%
2010	28.4	29.3	0.71%
2011	28.1	29.0	-1.06%
2012	29.9	30.8	6.41%
2013	30.7	31.6	2.68%
2014	30.7	31.7	0.00%
2015	31.4	32.2	2.28%
2016	31.6		0.64%
2017 (prelim)	*32.3*		2.22%
Average, 2005-2016			2.35%
Average, 2012-2016			2.40%

Source: EPA's Fuel Trends, Table 9.1

Message

From: Amy Harder [amy@axios.com]
Sent: 10/29/2018 1:58:12 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: catching up

Hey there, I don't know if you're busy or ignoring me (or perhaps a bit of both), and I'm also not sure what exactly got us totally sideways. I knew you were upset about that Paris story I did with Swan, but we never even connected to talk about that, and I would hope that we could attempt to have at least an open dialogue. Let me know.

Amy
202.906.9629.

On Mon, Oct 22, 2018 at 4:50 PM Amy Harder <amy@axios.com> wrote:

> Hi Ryan, I hope you're doing well. Would you be up for catching up (off the record) over coffee or something sometime soon?
>
> Amy
> 202.906.9629

Message

From: Brett Doyle Ex. 6
Sent: 10/20/2018 7:57:38 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Resume
Attachments: Doyle Resume 2018.pdf

Hi Ryan,

It was great talking to you yesterday. I really appreciate your reaching out and I am very excited for the opportunity to work at the EPA. Per our conversation, I have attached my resume to this email.

Please let me know if you need anything else from me and enjoy the rest of your weekend!

Brett
860-459-6979

BRETT DOYLE

(860) 459-6979 Ex. 6

EXPERIENCE

OFFICE OF THE U.S. TRADE REPRESENTATIVE **WASHINGTON, DC**
Senior Director for Congressional Affairs August 2017—Present

- Primary liaison to the Senate Finance Committee and Senate Republican Leadership.
- Lead Sherpa for two U.S. Ambassador nominees confirmed in March of 2018.
- Prepare and staff senior USTR officials for Congressional meetings, and hearings before the Senate Finance and Appropriations Committees.
- Brief Members of Congress and staff on the Administration's trade policy and status of trade negotiations.

U.S. SENATE REPUBLICAN POLICY COMMITTEE **WASHINGTON, DC**
Policy Analyst April 2017—August 2017

- Managed the Committee's advancement of energy, environment, and agriculture policies.
- Provided in-depth analyses on floor debate and votes to all Republican Senate offices.
- Contributed to weekly policy briefings for Republican Senators.
- Hosted regular briefings on timely policy issues for Republican Senate staff.

OFFICE OF U.S. SENATOR PAT TOOMEY **WASHINGTON, DC**
Legislative Assistant April 2013—April 2017
Legislative Correspondent January 2011—April 2013

- Lead advisor to the Senator on international trade, energy, environment, agriculture, infrastructure, transportation, and telecommunications issues.
- Liaison to the Senate Finance Committee for trade and infrastructure legislation.
- Managed a direct report who researched legislation and drafted official correspondence.
- Drafted and successfully incorporated legislative language into the Water Resources Reform and Development Act of 2014, FAST Act of 2015, and the Senate version of the 2016 FAA Reauthorization.
- Assisted in the reauthorization of key trade legislation, including: Trade Promotion Authority, Trade Adjustment Assistance, the Generalized System of Preferences, the Miscellaneous Tariff Bill, the African Growth and Opportunity Act, and the Trade Facilitation and Trade Enforcement Act of 2015.

EDUCATION

LAFAYETTE COLLEGE **EASTON, PA**
Bachelor of Arts in History, cum laude December 2010

U.S. NAVAL WAR COLLEGE **WASHINGTON, DC**
Master of Arts in National Security and Strategic Studies Expected-December 2020

Message

From: Block, Molly [block.molly@epa.gov]
Sent: 10/25/2018 8:59:19 PM
To: Annie Snider [asnider@politico.com]; Jackson, Ryan [jackson.ryan@epa.gov]
CC: Konkus, John [konkus.john@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]
Subject: RE: Responsible Science Policy Coalition & PFOA/PFOS

Annie –

"EPA officials have met with a variety of stakeholders, local leaders and elected officials, including Member of Congress, on the issues surrounding PFAS.EPA has now held six community meetings in: New Hampshire, Pennsylvania, North Carolina, Colorado, Kansas, and Michigan where EPA officials have heard from hundreds of individuals on the PFAS issues impacting their communities. EPA is in the process of responding to this important input and issuing a National PFAS Management Plan that outlines the agencies short-term actions and long-term plans to address PFAS. As part of that overall plan, EPA will soon be asking for public comment on draft health toxicity information for GenX and PFBS chemicals. Public input, from all stakeholders is critical to EPA's process for addressing PFAS."

Molly

From: Annie Snider [mailto:asnider@politico.com]
Sent: Wednesday, October 24, 2018 4:37 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Block, Molly <block.molly@epa.gov>
Subject: Responsible Science Policy Coalition & PFOA/PFOS

Ryan, I am looking into a group called the Responsible Science Policy Coalition that has been lobbying on PFOA/PFOS regulation, questioning the science around the chemicals causing harm to humans. I understand the group, and its primary backer, 3M, came into EPA for at least two meetings with Richard Yamada over the late summer/early fall, and possibly others with the water office, and that this is a matter that's on your radar. My sense is that there is a divide within industry about how to approach this issue; obviously ACC is on the record backing the current EPA approach to evaluating and possibly regulating the two legacy chemicals.

I'm hoping you can comment on a few things for me:

1 – confirm that EPA officials have met with the group
2 – comment on their line of argument – that PFOA and PFOS aren't proven to be harmful to humans at current exposure levels
3 – comment on what influence industry will have in the EPA process of evaluating the chemicals and potentially proceeding with regulations. Industry sources tell me that part of the reason much of the chemicals industry is on board with the EPA efforts is because they think the Trump administration will produce industry-friendly standards.

I'm shooting to wrap up reporting by COB tomorrow. I'm on my cell if you want to discuss.

Best,
Annie

Annie Snider
Reporter
POLITICO
asnider@politico.com

646-250-1943 - cell
@AnnElizabeth18

Message

From: Public Sector Women in the Workplace [PublicSectorWiW@McKinsey.com]
Sent: 10/18/2018 4:21:59 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Speakers Announced for 10/29 Public Sector Women in the Workplace Event

McKinsey&Company

Don't miss the opportunity to join McKinsey & Company's Public Sector Women in the Workplace report launch and networking reception on **Monday, October 29, 2018 from 5:30-7:30 PM** at the Dupont Circle Hotel in Washington, DC.

An overview of the 2018 survey findings and a panel discussion about the challenges and opportunities facing women in the public sector will feature:

- **Margaret Weichert,** Deputy Director for Management at the Office of Management and Budget
- **Natalie Jaresko,** Executive Director of the Financial Oversight and Management Board for Puerto Rico
- **Meroe Park,** Vice President, Partnership for Public Service
- **Nora Gardner,** Senior Partner, McKinsey & Company

Register now to reserve your spot at the event.

Pursuant to 5 CFR § 2635.204(g), we believe that this event falls within the "Widely Attended Gathering" exception, which, subject to a determination of agency interest and a written authorization by your agency designee, serves as an exception to certain government ethics restrictions.

Each portion of the agenda is an integral part of the event during which we would welcome your viewpoint and participation in the exchange of ideas. We recommend that you coordinate with your ethics official for official confirmation of your agency determination. We are happy to provide additional cost information and/or breakdown, if helpful.

Message

From: Thompson, Ryan [thompsonr@akingump.com]
Sent: 10/12/2018 2:48:51 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: 20 min meeting this week?

Wednesday?

On Oct 12, 2018, at 9:48 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

No I'll be on travel Monday and Tuesday.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 12, 2018, at 10:45 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:

> Ryan, would Tuesday afternoon work for a meeting with me and Patrick? Thanks! -Ryan
>
> On Oct 10, 2018, at 10:09 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:
>
> Yes, sorry for the delay in responding - would Tuesday afternoon work for you? Thanks. -RT
>
> **Ryan Day Thompson**
> **AKIN GUMP STRAUSS HAUER & FELD LLP**
> Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio
>
> On Oct 9, 2018, at 12:16 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> **EXTERNAL Email**
>>
>> Does Patrick want a meeting? Just shoot me when.
>>
>> **From:** Thompson, Ryan [mailto:thompsonr@akingump.com]
>> **Sent:** Tuesday, October 9, 2018 8:44 AM
>> **To:** Jackson, Ryan <jackson.ryan@epa.gov>
>> **Subject:** Re: 20 min meeting this week?
>>
>> If easier, let me know if I should reach out to someone on your scheduling team to get this on the books. Thanks! -Ryan

Ryan Day Thompson
AKIN GUMP STRAUSS HAUER & FELD LLP
Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

On Oct 8, 2018, at 8:03 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:

Ryan,

Do you have 20 mins to meet this week? Preferably on Wednesday or Thursday? Thanks! - Ryan

Ryan Day Thompson
AKIN GUMP STRAUSS HAUER & FELD LLP
Mobile:
202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

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Message

From: Susan Tackish [tackishs@api.org]
Sent: 10/23/2018 7:17:34 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: telephone call

Ryan – Mike left you a voice message on your cell at 3:00pm. He's free until 3:30pm if you want to call him back at Ex. 6 Ex. 6 Thanks! Susan

---

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 23, 2018 12:14 PM
To: Susan Tackish <tackishs@api.org>
Subject: Re: telephone call

How about today at 3?

It's nothing policy related. I actually wanted to ask him about a couple of personnel issues.

I can also be reached anytime on my cell at Ex. 6

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 23, 2018, at 10:52 AM, Susan Tackish <tackishs@api.org> wrote:

> Hi Ryan – Mike has availability today at 3:00pm or Thursday from 11:00-11:45am or 3:30-4:30pm. If none of those times work for you, let me know a couple of times that do and I'll try to adjust the schedule on our end. Is there a particular subject you want to discuss that I can give Mike a heads up on? Thanks, Susan
>
> **Susan A. Tackish**
> EA to the President & CEO
>
> API | 1220 L Street, NW | Washington, DC 20005
> 202.682.8502 P | 202.682.8110 F | tackishs@api.org
>
> ---
>
> **From:** Jackson, Ryan <jackson.ryan@epa.gov>
> **Sent:** Tuesday, October 23, 2018 10:32 AM

To: Susan Tackish <tackishs@api.org>
Subject: telephone call

Susan, I wanted to see if I could set up a time to talk with Mike for 10 or 15 minutes. Much appreciated.

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: Stratton Edwards [sedwards@capitolhillcg.com]
Sent: 10/10/2018 7:01:04 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Allied BioScience CEO meeting request
Attachments: ATT00001.txt

Ryan,
Just following up on this as Mike will be here next week. We would like to see the Administrator, but if he is not available I would appreciate a chance for Mike to sit down with you.

Stratton

From: Stratton Edwards
Sent: Monday, October 1, 2018 2:08 PM
To: 'jackson.ryan@epa.gov' <jackson.ryan@epa.gov>
Subject: Allied BioScience CEO meeting request

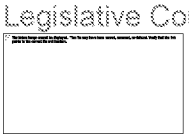
Ryan,
I hope you are well. I have a client, Allied BioScience (ABS), whose CEO will be in town the afternoon of Oct. 16th through the morning of the 18th who would like to meet with the Acting Administrator. Ken Calvert talked to Administrator Wheeler about this company in early July and who indicated he would like to learn more.

ABS has developed two different formulations of a semi-permanent antimicrobial coating that molecularly bonds to all surfaces, hard or soft. In clinical trials in ICUs, the coating has dropped microbial levels by 70+% and sustained those drops over time. There has been a corollary drop in Hospital Acquired Infections. ABS is currently going through the registration and labeling process in the pesticide division. The agency has been very helpful. We've met a few times with Anita Pease and Steven Weiss, as well as Nancy Beck. The problem we're running into is that because the product kills 99.9% rather than 99.99% of microbes it cannot be labeled antimicrobial, although the reduction is sustained over time. This has great potential to save lives and cut healthcare costs.

If the Administrator has any time in that window that he is available to meet, we appreciate the opportunity. Thanks for your help and I hope to see you soon.

Stratton

Stratton Edwards
Legislative Counsel



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Web: capitolhillcg.com

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/10/2018 11:29:16 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Republican Anger High, Murphy Fights for Veterans, New Campaign Ads

Republican Anger High, Murphy Fights for Veterans, New Campaign Ads

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PRESENTED BY IRAQ AND AFGHANISTAN VETERANS OF AMERICA (IAVA)

Straight from The Well

Wednesday, October 10, 2018

What's today's news you'll never use? Read to the end to find out how a gecko prank called 'a bazillion' people.

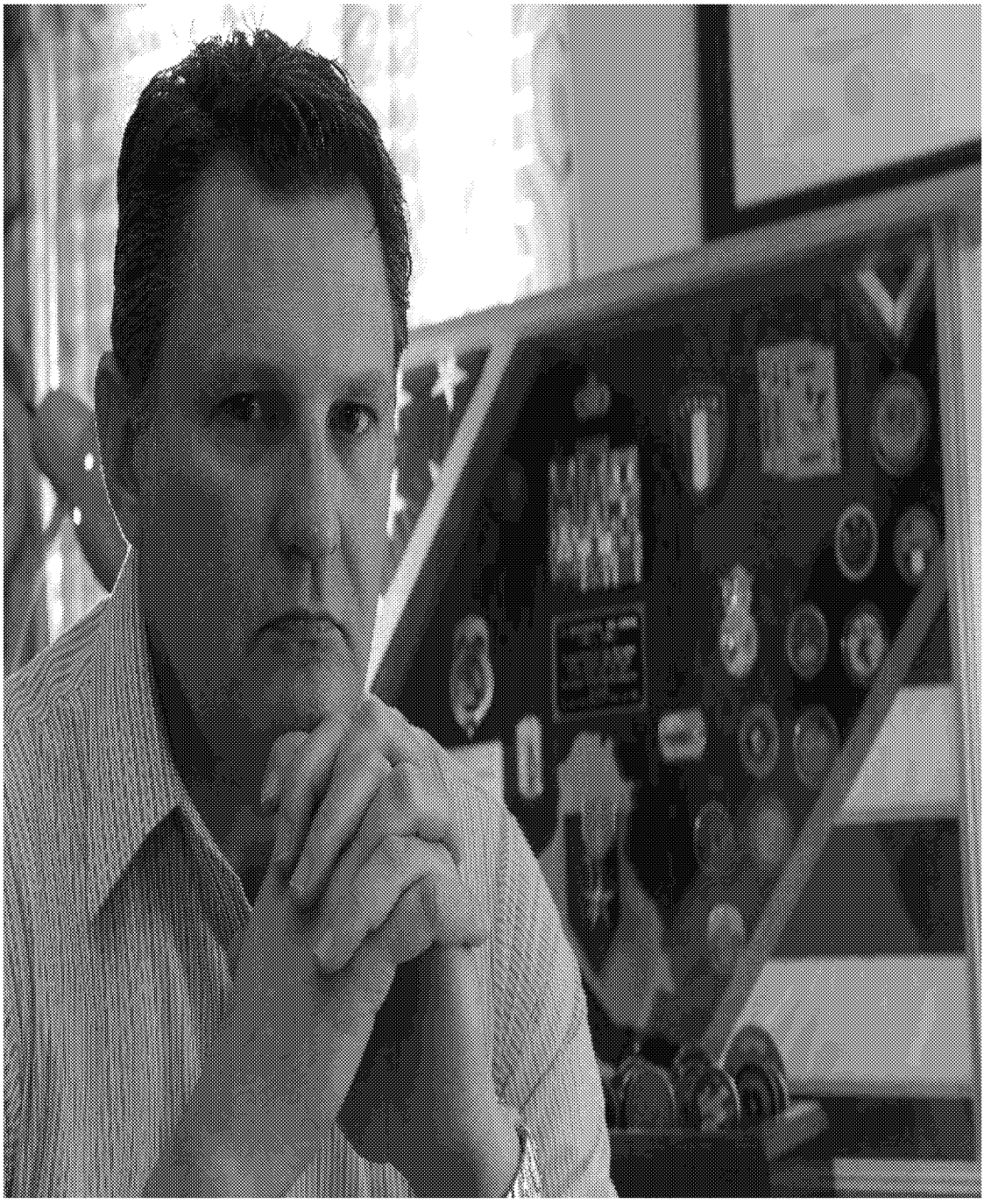
IN THE STATES

Cortez Masto Turns Focus to Domestic Violence at Home in Nevada

This week, U.S. Senator Catherine Cortez Masto (D-NV) headed home to host community leaders and advocates at a roundtable discussion on the work being done in northern Nevada to prevent domestic violence and support survivors of abuse. October is recognized as Domestic Violence Awareness Month. Read more.

REP. STEPHANIE MURPHY FIGHTS FOR VETERANS' DISABILITY BENEFITS

New Ad Reflects Florida Representative's Work on Behalf of Veterans



Robert Fearing served in the Air Force for 20 years. One of his deployments was to Iraq, where he developed post-traumatic stress disorder. He and hundreds of thousands of other veterans are awaiting answers to their disability claims. (Barbara Haddock Taylor/Baltimore Sun/MCT)

Throughout her first term in Congress, Florida Representative Stephanie Murphy has been quietly working to secure disability benefits owed to veterans and their families. Murphy's office says they have handled 1,200 cases to help constituents recover earned benefits since she took office in 2017. Read more.

TONIGHT IN WASHINGTON

A Bipartisan Discussion with Hickenlooper, Kasich

Tonight the Center for the Study of the Presidency and Congress (CSPC) will host a conversation with Governors John Hickenlooper of Colorado and John Kasich of Ohio. The governors will be awarded the *Publius* Award by leaders of the organization, including Ambassador Thomas R. Pickering, Chairman of the Board of Trustees, Pamela Scholl, Vice Chairman & Chairman of the Executive Committee, and Representative Glenn Nye, President and CEO.

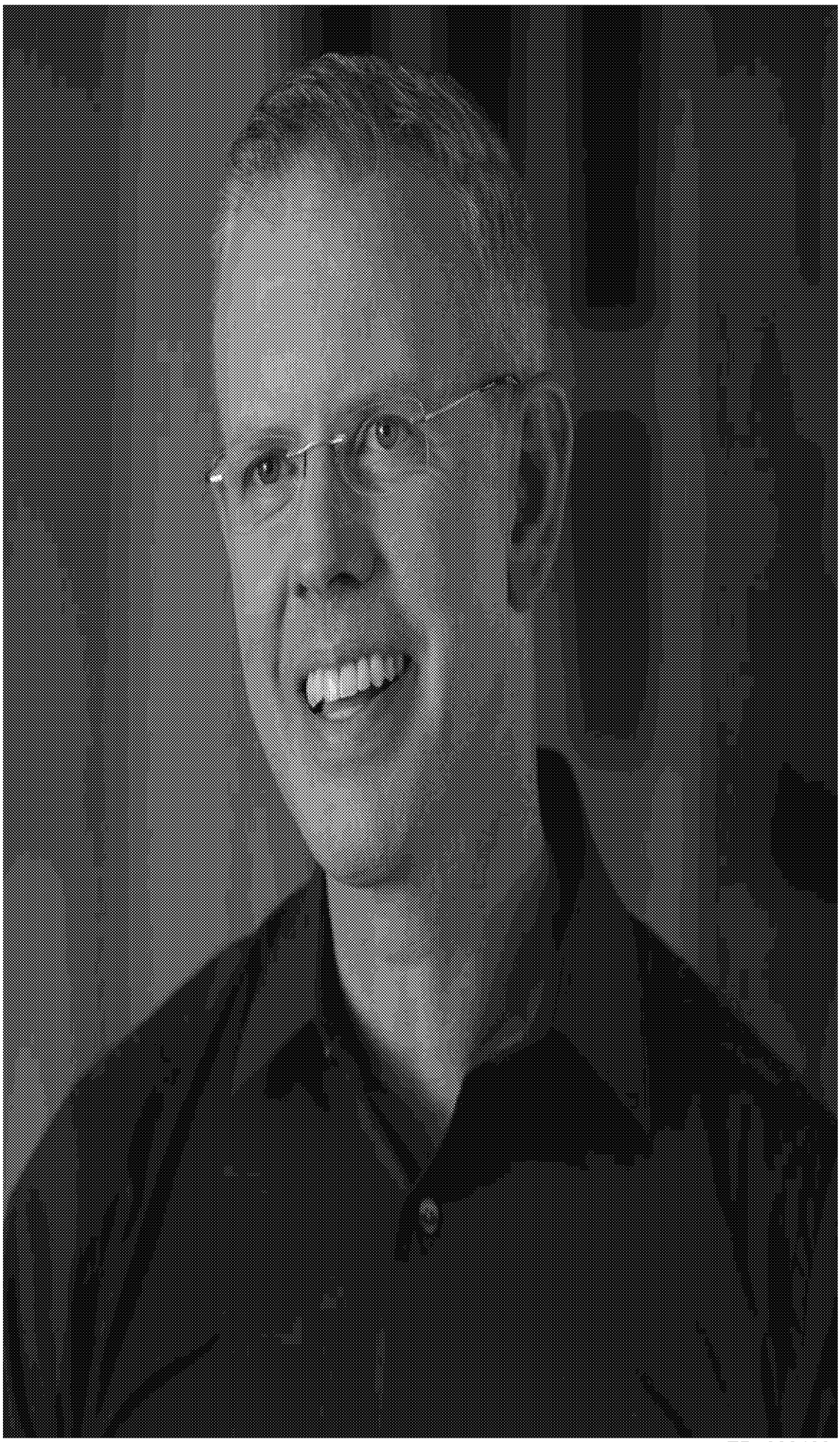
The *Publius* Award draws its name from the pseudonym used by the authors of *The Federalist Papers:* Alexander Hamilton, John Jay, and James Madison. According to CSPC: Reflecting the principles of bipartisanship and service to the people of Colorado and Ohio, these governors have embodied the principles of our founders by demonstrating that remaining true to strongly held ideals need not be a barrier to bringing Americans together to solve our shared challenges.

About Iraq and Afghanistan Veterans of America (IAVA)

MISSION STATEMENT

Iraq and Afghanistan Veterans of America (IAVA) is the premier veterans advocacy and support organization on the planet. Every day, we fight for veterans. Hard. We are the tip-of-the spear non-profit engine of impact that connects, unites and empowers over 400,000 veterans and allies nationwide.

Candidate Profile: Paul Davis



Paul spent the early years of his career as a liaison to state lawmakers at the Kansas Insurance Department. At the time, the agency was leading an unprecedented charge as a consumer watchdog. Click here to watch Paul's campaign video and learn more about him.

It's Time to Come Together to Protect Our Patients

Opinion by Dr. Rebecca Parker

Emergency physicians are America's first line of medical defense. We come to the aid of patients at their most critical times, often providing life-saving care. These dedicated physicians serve as the gateway to other areas of patient care, such as radiology, anesthesia, and other medical specialties. Read more.

In The News

- **Help Wanted: Haley's Exit Leaves White House Without One of Its Best Messengers**
  By Anita Kumar and Emma Dumain

- **At Iowa Rally, Trump Portrays Democratic Protesters as 'Angry Mob'**
  By Eli Stokols

- **Are Wireless Voting Machines Vulnerable? Some States Say They're Safe Enough**
  By Tim Johnson

EVERY DAY IS SOME DAY: October 7-13 is #FirePreventionWeek

Source: National Fire Protection Association

In 1925, President Calvin Coolidge proclaimed Fire Prevention Week a national observance, making it the longest-running public health observance in our country. During Fire Prevention Week, children, adults, and teachers learn how to stay safe in case of a fire. Firefighters provide lifesaving public education in an effort to drastically decrease casualties caused by fires.

MIDTERMS 2018: POLLING AND ADS

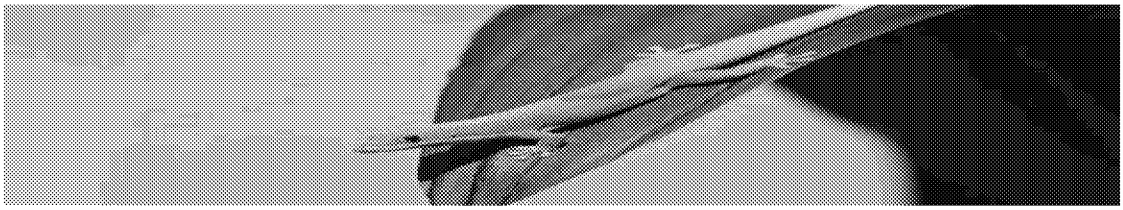
AIRING TODAY: Rep. Brad Schneider's (IL-10) campaign releases a new TV ad which will begin airing today. The ad highlights the work Rep. Schneider has done for constitutents across his district and even has a little humor too.

NEW AD: Rep. Scott Peters' (CA-52) campaign releases first ad of 2018. The ad, produced in both English and Spanish, features San Diego DREAMer Karen Bahena, who highlights Rep. Peters' advocacy for DACA recipients and as fighter of President Donald Trump's immigration policies.

HMP LAUNCHES $20M AD BLITZ: On Tuesday, House Majority PAC launched a media blitz with new TV ads in 13 districts across the country: CA-10, CA-25, CA-39, CA-45, CA-48, CA-49, FL-26, MI-08, MI-11, NJ-07, NV-04, NY-19, and TX-32. Across these 13 districts, HMP is spending

approximately $20 million and will air the ads in eight different media markets: Albany, Dallas-Fort Worth, Las Vegas, Los Angeles, Miami, New York City, Sacramento, and San Diego.

NEWS YOU CAN'T USE



Gecko Causes Chaos At Hawaiian Hospital By Hijacking Phone And Prank Calling "A Bazillion" People (IFLScience!)

The Well News, 777 6th Street, NW, Washington, DC, 20001
Unsubscribe

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 10/12/2018 7:36:58 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
CC: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: the remarks about CARB
Attachments: ATT00001.txt; 2018-09-11 SAFE Rule CARB Request to USEPA NHTSA for Additional Info.._.pdf

Hey there

In the past couple pf weeks, AW has said both privately and publicly that Mary Nichols has failed to provide EPA with a counter-offer on the car rules. See the highlighted text below for an example. As I may have mentioned before, providing a written counter-offer post-NPRM raises ex parte concerns in that it all has to be placed into the public docket. That means that whatever materials submitted also need to be accurate, vetted, and in a form that could hopefully be supported by stakeholders.

The article notes that CARB has requested information from all automakers specifically for the purpose of understanding these companies' compliance challenges so that CARB can most effectively respond to those challenges. It is my understanding that while some OEMs have provided the materials, some major OEMs have refused to provide it entirely, and meetings with others are scheduled through the end of this month.

Moreover, CARB ALSO requested technical data and information from EPA and NHTSA more than a month ago (see attached), saying that it needed this information in order to properly evaluate and respond to the NPRM. I do not believe CARB has received a response.

Any sense for when EPA plans to provide CARB with the materials it has requested? I'm hoping that the assertions that CARB is dragging its feet on a counter-offer can also stop in the meantime.

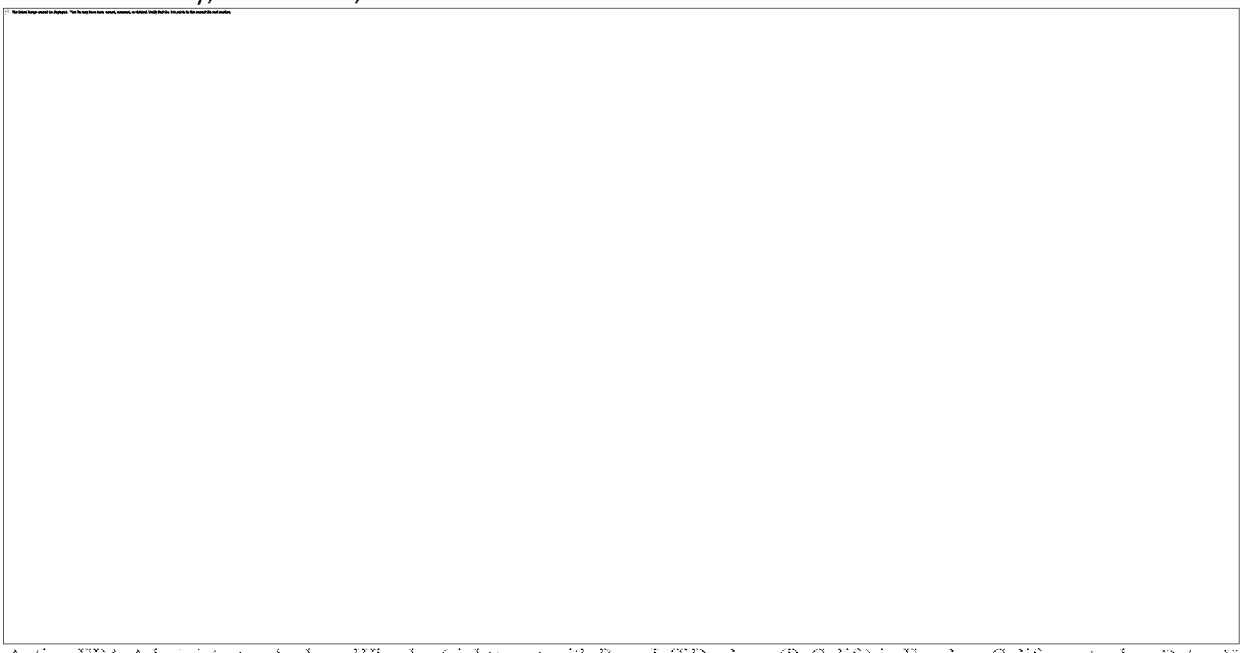
Thanks
Michal

EPA

Wheeler disowns Facebook post, is open to clean car talks

Debra Kahn, E&E News reporter

Published: Friday, October 12, 2018



Acting EPA Administrator Andrew Wheeler (right) met with Rep. Jeff Denham (R-Calif.) in Escalon, Calif., yesterday. Debra Kahn/E&E News

ESCALON, Calif. — Acting EPA Administrator Andrew Wheeler addressed his controversial Facebook activity yesterday, calling a racist image of the Obamas that he endorsed on the website "absolutely offensive."

Two Democratic senators have now called for Wheeler to step down over his "liking" of a racist Facebook post in 2013 that depicted President Obama and first lady Michelle Obama looking at a banana. *HuffPost* first reported on the action earlier this week.

When asked whether he regretted liking the post, Wheeler said he had no memory of it.

"I don't remember doing it. At all. I believe it was probably on accident," he said. "You know, 90 percent of my Facebook is done on my iPhone, just scrolling through it. It was not on purpose. I find it offensive. In fact, when I was shown the picture by my staff, I said, 'What the hell is this,' and they said, 'It's from your Facebook,' and I said, 'No, it's not.'"

Sen. Jeff Merkley (D-Ore.) was the first senator to call for Wheeler's resignation, tweeting Tuesday: "The head of a government agency has no place 'liking' racist memes or promoting the work of Pizzagate conspiracy theorists. If these are indeed Wheeler's actions, he should do the right thing for the EPA and resign immediately."

Ahead of Wheeler's comments yesterday, Sen. Ed Markey (D-Mass.) also called for him to "disavow" liking the post or to step down.

"Andrew Wheeler claims to not remember the racist post about the Obamas that he 'liked,'" Markey said on Twitter. "If that's true, he should disavow it immediately. If it's not true, he should resign immediately. There's no room for this disgusting, hateful rhetoric in our discourse."

Along with disavowing the Facebook post, Wheeler yesterday also addressed an ongoing rulemaking at the agency that proposes to roll back President Obama's clean car standards.

EPA and the National Highway Traffic Safety Administration are proposing to freeze Obama-era fuel economy rules at 2020 levels, a move that has triggered a legal battle with California, which has its own tailpipe emissions standards tied to the federal ones. California's Air Resources Board has held several meetings with EPA and NHTSA on the rules, but CARB Chairwoman Mary Nichols said the talks were not substantive (*E&E News PM*, Sept. 28).

Wheeler said the ball was in California's court. The public comment period on the proposed federal rule ends Oct. 26.

"When I met with Mary Nichols, she promised that within one week of us going forward with our proposal, they would be willing to sit down and have a counter for us," he said. "It's now been eight weeks, and I'm still waiting for the counter from CARB.

"So as soon as they're ready to sit down and talk again — we've had three meetings since we released the proposal, but as soon as they're ready to have a counterproposal to us, happy to sit down and talk to Mary Nichols and her team anytime."

CARB asked automakers last month for data on how they were trying to comply with the existing rules, with the aim of finding "flexibilities" on which to compromise.

"Hopefully, they get that," Wheeler said.

Wheeler visited Escalon, a Central Valley district represented by Republican Rep. Jeff Denham, to learn about an upcoming rulemaking at the State Water Resources Control Board that aims to increase water flows in three rivers that feed the Sacramento-San Joaquin Delta. EPA is in charge of certifying the plan under the Clean Water Act.

Denham is facing venture capitalist Josh Harder (D) in a race rated a "Toss-Up" by *The Cook Political Report*. Wheeler has visited several other House Republican districts in recent months, including ones in Ohio, Kentucky, Michigan and Iowa. Wheeler and Denham said the timing of the visit was motivated by California's decision to hold the vote on the controversial plan as soon as Nov. 7. In other words, Wheeler was not there to support the Republican candidate in the run-up to the midterms, which could result in a violation of the Hatch Act, the federal law that prohibits civilian employees in the executive branch from using their authority or influence to affect an election's results (*Greenwire*, Aug. 31).

When asked why he thought the Trump administration's EPA policies would help rather than hurt Republican candidates, Wheeler said, "'Cause we're doing the right thing for the American people. But that's not why I'm here. I was in Seattle and Wyoming and other places without meeting — this isn't a campaign thing. This is an issue that's going to hit the agency on Nov. 7, and I can't wait till Nov. 8 to get up to speed."

He added: "This has nothing to do with the election."

CALIFORNIA
AIR RESOURCES BOARD

Mary D. Nichols, Chair
Matthew Rodriquez, CalEPA Secretary
Edmund G. Brown Jr., Governor

September 11, 2018

Andrew K. Wheeler
Acting Administrator
United States Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

RE: REQUEST FOR DOCUMENTS IN SUPPORT OF:

REQUEST FOR EXTENSION OF COMMENT PERIOD AND ADDITIONAL PUBLIC HEARINGS REGARDING JOINT PROPOSED RULE TO ROLL BACK VEHICLE GREENHOUSE GAS EMISSIONS AND CORPORATE AVERAGE FUEL ECONOMY STANDARDS FOR MODEL YEARS 2021-2026 LIGHT-DUTY VEHICLES

Docket IDs: NHTSA-2018-0067 / EPA-HQ-OAR-2018-0283

Dear Acting Administrator Wheeler and Deputy Administrator King:

On August 27, 2018, the California Air Resources Board (CARB), along with the Attorneys General of the State of California and several other states, and several state agencies, requested that the United States Environmental Protection Agency (U.S. EPA) and the National Highway Traffic Safety Administration (NHTSA) extend the comment periods for the joint proposed rule referenced above,[1] and the associated draft Environmental Impact Statement. The proposal departs from legal precedent and from the factual record as CARB understands it, and needs careful evaluation. CARB writes separately in its capacity as a co-regulator with U.S. EPA, specifically recognized in the Clean Air Act to protect public health from motor vehicle air pollution and engines, to request information necessary to evaluate the proposal.

[1] Published at 83 Fed.Reg. 42,986 (August 24, 2018).

NHTSA and U.S. EPA must identify and make available the technical studies and data on which it is relying to propose these rules.[2] As we wrote in the request for a reasonable comment period, the modeling, assumptions, and analysis underlying these proposals are dramatically different from that of previous, similar rulemakings. The explanation for this proposal, despite encompassing hundreds of pages, is not clearly presented or adequately supported, as elaborated on below. Further, unlike previous federal proposals for regulations of emissions from motor vehicles, CARB has not been involved in discussions developing the proposal, contrary to prior commitments from U.S. EPA and NHTSA to collaborate with California on these standards, and past practice developing motor vehicle emission standards.[3] Thus, CARB is unable fully to evaluate the federal proposal based on the information made available to date and other stakeholders are likely to encounter similar difficulties.

Under the Freedom of Information Act (FOIA) as well as the Administrative Procedures Act, CARB requests U.S. EPA and NHTSA make the information identified below publicly available in the dockets for the proposed rule within 20 days of your receipt of this letter. Please make the requested information available on a rolling basis as soon as it is identified, without awaiting identification or production of other requested information. Absent the requested information, along with the requested extensions to the comment periods for the proposal and associated draft Environmental Impact Statement, neither CARB nor other interested persons are being provided a reasonable opportunity to evaluate the proposed rule and its asserted basis.

If any of the requested information is asserted to be exempt from disclosure, please provide an index of those records as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). This index should describe each document claimed as exempt from disclosure with sufficient information to allow a reasoned judgment as to whether it is properly exempt under FOIA.[4]

1. Information about the models and data used to estimate battery costs for electrified vehicles.

    a. The proposal and the Preliminary Regulatory Impact Analysis (PRIA), NHTSA-2018-0067-1972, reference the Argonne National Laboratories' (ANL) website for the BatPaC model for estimating battery costs for vehicles, and state that the agencies used "an up-to-date version" of the model, but do not identify the version. (*See*, e.g., 83 Fed.Reg. 42, 985,43,002 (August 24,

[2] *Connecticut Light & Power Co. v. Nuclear Regulatory Com.*, 673 F.2d 525, 530-531 (D.C. Cir. 1982); 42 U.S.C. § 7607(d)(3) [notice of proposed rulemaking "shall be accompanied by a statement of its basis and purpose" including "the factual data on which the proposed rule is based; the methodology used in obtaining and in analyzing the data; and the major legal interpretations and policy considerations underlying the proposed rule."].

[3] See, e.g., 77 Fed.Reg. 62,624, 62,632, 62,784-62,785 (Oct. 15, 2012) [discussing coordination with CARB to develop the standards at issue and for changes to standards].

[4] *Founding Church of Scientology of Washington, D.C. v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

2018).) U.S. EPA and NHTSA have posted to the dockets for this action a document describing how BatPaC was developed, but this document appears to be from 2012. It does not state which version of BatPaC NHTSA and U.S. EPA used to estimate battery costs. See "Modeling the Performance and Cost of Lithium-Ion Batteries for Electric-Drive Vehicles, Argonne National Laboratory, ANL-12/55," NHTSA Docket ID #: NHTSA-2018-0067-1692; EPA Docket ID#: EPA-HQ-OAR-2018-0283-0764.

b. U.S. EPA and NHTSA should make available the information specifying the full battery sizes, in kilowatt-hours (kWh), battery pack configuration, and costs used for each vehicle iteration in the CAFE model. See PRIA, Electrification Technologies, Technology Overview, section 6.3.8.1, p. 357. The PRIA states that NHTSA posted ANL vehicle files that have battery pack sizes and costs for each vehicle, but there is no additional information about battery pack configuration (e.g., the number of cells, and the electrical topology of how those cells are arranged in the battery pack), nor do they directly reference where the files are posted. NHTSA and U.S. EPA have not posted the BatPaC model file(s) that were used. ANL cost and battery size data referenced in the PRIA, p. 358, footnote 325, but the footnote refers to a docket identification number that is not available. Previously, in support of the draft Technical Assessment Report and Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation (Proposed Determination), EPA-420-R-16-020, November 2016, U.S. EPA posted the BatPaC files that it used.

c. The proposal and PRIA provide conflicting information about which battery chemistries the agencies considered. For instance, the proposal and PRIA refer to NMC441-Gr chemistry for both plug-in hybrid-electric vehicles and battery-electric vehicles, but the ANL summary refers to NMC333. See, e.g., PRIA, pp. 372, Table 6-27, 373 ["We selected NMC441 as choice of chemistry for PHEVs and BEVs. NMC441 more suitable for high energy batteries capable of discharge rates."]. The Excel file titled "ANL-Summary of Main Component Performance Assumptions NPRM" has a tab labeled 'Description – BatPac' with the same table listed as in the PRIA, except the chemistry listed for PHEVs and BEVs is NMC333-G instead of NMC441-Gr. See Docket ID Nos. EPA-HQ-OAR-2018-0283-0054 and NHTSA-2018-0067-0003. The proposal and PRIA do not directly reference this file.

This information is required to replicate and evaluate whether the modeling underlying the proposal is appropriate, considering the various vehicle and technology types.

2. The PRIA references Polk registration data, including survival rates aggregated by model year, calendar year, and body style. These data are needed to verify the

coefficients of the new model predictions for vehicle retirement (scrappage), but have not been made available. See, e.g., PRIA at pp. 1008, 1014, 1023, fig. 8-23, 1025, fig. 8-24, and 1027, fig. 8-25.

3. New vehicle sales and price data referenced in the proposal. This includes:

    a. Data provided by the National Automobile Dealers Association (NADA) and others. See 83 Fed.Reg. at 43,095; PRIA, pp. 1017-1018.

    b. Data describing historical transaction prices, and quarterly new vehicle sales data used to develop the dynamic new sales model. See PRIA, pp. 954-961.

    c. Economic data used to develop the autoregressive distributed-lag (ARDL) model that predicts new vehicle sales and is used in the CAFE model. See 83 Fed.Reg. at 43,074.

This data is necessary to evaluate the proposal's predictions for fleet population, sales, and fatalities.

4. Report of analysis of the standard errors and significance of the ARDL sales model coefficients, F-statistic and R^2 of the overall model, and variable stationarity and co-integration indicators. This information is needed to verify the statistical significance and errors of the coefficients used in the Volpe model. The coefficients for the ADRL sales model listed on p. 957, Table 8-1 of the PRIA, are not consistent with those implemented in the model. See CAFE Model Documentation, PRIA, p. 78, Table 17, available at: https://www.nhtsa.gov/corporate-average-fuel-economy/compliance-and-effects-modeling-system ["2018 NPRM for Model Years 2021-2026 Passenger Cars and Light Trucks," Model Documentation].

5. The coefficients for the dynamic fleet share equation described in the CAFE Model Documentation on p. 79. These are not listed anywhere. Additionally, according to the PRIA on p. 955, the model was based on EIA's National Energy Modeling System (NEMS), but no reference is provided for the NEMS model. This information is necessary to evaluate the equation used in the model.

6. Cited reference Anders Lie, Swedish Transport Administration, Peer Review of NHTSA's November 2011 Preliminary Report "Relationships Between Fatality Risk, Mass, and Footprint in Model Year 2000-2007 Passenger Cars and LTVs." This document reviews the 2011 study by Kahane that NHTSA relies upon, regarding the effects of mass reduction on fatality risk. See 83 Fed.Reg. at 43,112, n. 307. It is also item 0035 in the NHTSA-2010-0152 docket. However, attempting to access the document on the docket website results in a server error. See https://www.regulations.gov/document?D=NHTSA-2010-0152-0035, attempted August 28, 2018.

7. CAFE model output file Annual Societal Effects Report. See CAFE Model Documentation, *infra*. This data describes predicted fatalities by regulatory class, body style, and weight threshold of vehicle. This detailed information is necessary to evaluate the fatalities computation in the CAFE model.

8. The agencies' detailed explanation and derivation of their point estimates for the increase in fatalities per hundred pounds of mass reduction over a constant footprint based on historical crash data, for model years 2004-2011 and calendar years 2006-2012. Previously, these details were provided in a separate report such as the "2016 Puckett and Kindelberger report." No such report is available this time. The PRIA only provides a summary table of the results of this analysis, yet states an "updated analysis" exists. See PRIA, p. 1357, section 11.4.

9. Data used by the agencies to derive the new statistical model that predicts fatality rates by vehicle age. See PRIA Table 11-21, p. 1397. The coefficients of the model are provided, but without the data it is not possible to evaluate whether the coefficients were properly derived. Additionally, the coefficients provided in the PRIA are different (significant digits and sign changes) than those identified in the actual model source code (which are also commented out such that they are non-functional) and are different from the model year based coefficients used in the input files. This renders unclear what coefficients the analysis in the NPRM is based upon.

10. So-called "off model" analytical tools the agencies used to summarize and tabulate the results of the CAFE model. See 83 Fed.Reg. at 43,256, n. 595. These tools and calculations analyzed various components of social and private costs and benefits, as well as other factors. These analytical tools are supposedly available on NHTSA's website but we have not located them.

11. Input files used for the Autonomie model for various engine technologies that U.S. EPA and NHTSA rely on to calculate the efficiency improvements of various technologies, such as turbocharging and high-compression-ratio (Atkinson) engines. The input and output files are required to be able to understand what U.S. EPA and NHTSA relied on as representative of these engine technologies, and to confirm correct efficiency levels were calculated for the various technologies, considering the current state of the art.

12. Modeling tools developed by U.S. EPA including:

    a. All files necessary to utilize - with the Advanced Light-Duty Powertrain and Hybrid Analysis (ALPHA) and the Optimization Model for reducing Emissions of Greenhouse gases from Automobiles (OMEGA) - the response surface equations developed by U.S. EPA as identified or referenced in: "Peer Review of EPA's Response Surface Equation Report" (Docket ID No. EPA-HQ-OAR-2018-0283-0025); and SAE paper 2018-01-1273 authored by U.S.

EPA (Docket ID No. EPA-HQ-OAR-2018-0283-0028).

b. All new or modified input files, source code, and executable files for U.S. EPA's OMEGA model developed since the release of the Proposed Determination in late 2016.

c. All current and new input files, source code, and executable files for ALPHA used for the Proposed Determination in late 2016 and/or modified since then.

d. All current and new pre-processors and their inputs used for the Proposed Determination in late 2016 or modified since then to categorize, sort, and rank technology packages and costs for use with OMEGA.

We understand that these models evaluate the cost and effectiveness of available technologies to meet greenhouse gas emissions targets. We also understand that NHTSA and U.S. EPA have previously relied on these models. These files and data are thus necessary for CARB and the public to be able to verify the agencies' claims that that the CAFE model has advantages to the U.S. EPA models and to consider the relevance and make sense of the docketed materials, including the peer review and SAE paper identified above.

It is unreasonable for U.S. EPA and NHTSA to expect interested persons to evaluate the massive changes in outcomes, models, approaches, inputs, and analyses in a 60-day comment period (and in even less time for the draft environmental impact statement). This is especially apparent when not even CARB, despite its considerable expertise in these matters, is able to perform a complete review.

CARB also requests a waiver of searching and copying fees for this request. CARB is a non-commercial, governmental organization, and should not be subject to fees for this request. The information requested is likely to significantly contribute to public understanding of NHTSA and U.S. EPA's proposed rules. CARB is a co-regulator of motor vehicle emissions with U.S. EPA, and has coordinated with U.S. EPA and NHTSA on the regulations that the agencies are proposing to change. CARB has a significant interest in the proposed action, and the requested information will enable CARB to evaluate the potential impacts of the proposed rule.

Under FOIA, agencies must waive such fees in instances like this where disclosure is likely to contribute to public understanding of the operations and activities of the government and disclosure is not primarily in the commercial interest of the requester.[5]

You may contact me at (916) 323-9608 or ellen.peter@arb.ca.gov, or Senior Attorney Pippin C. Brehler at (916) 445-8239 or pippin.brehler@arb.ca.gov, to discuss any of these issues. If this request for a fee waiver is denied, please contact Mr. Brehler before

[5] *See* 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. §2.107(l)(1) [U.S. EPA adoption of these requirements].

incurring any costs in responding to this request. We look forward to receiving your response to these requests within twenty business days, as required by FOIA.

Sincerely,

Ellen M. Peter
Chief Counsel
Executive Office
California Air Resources Board

CC:

Christopher Lieske
Office of Transportation and Air Quality,
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2000 Traverwood Drive
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Freedom of Information Act Public Liaison
National Highway Traffic Safety Administration
1200 New Jersey Ave., SE
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Washington, D.C. 20590

Message

From: Bloomberg Government [bbg_gov@info.bgov.com]
Sent: 10/22/2018 11:00:53 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: This Week: HHS' Blockchain Pilot, MIT Bets $1B on AI, JEDI Angst

Bloomberg Government Technocrat

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What's New This Week:
AI and Blockchain to the Rescue

Artificial intelligence is the future, according to the Massachusetts Institute of Technology, which made a big announcement last week that it was restructuring its academic program around AI. MIT plans to dedicate $1 bil new college that combines AI, machine learning, and data science with other disciplines.

Stephen Schwarzman, an investor who is giving $350 million to the new college of computing, said the U.S. government should follow MIT's example and be more ambitious when it comes to AI. Investing in the technolo "necessary to ensure that America has a leading voice in shaping the future," Schwarzman said.

The government has already taken note. IT modernization is a hot topic for agencies right now, especially with debut of the President's Management Agenda to address the biggest challenges in government. AI, machine le and blockchain are now part of the federal technology lineup.

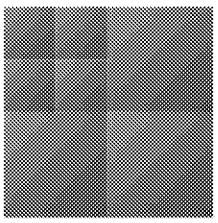
The Department of Health and Human Services is one agency that's betting on emerging technologies to strea buying power. HHS has been running a pilot program that uses machine learning and blockchain in acquisition far, the results are positive. As part of the pilot, the agency is using a blockchain tool called Accelerate—which deployed as early as Thanksgiving—to automate the process of comparing prices of everyday items listed on t thousands of HHS contracts.

Accelerate could become the first-ever fully operational blockchain project managed by a federal agency, if it g green light from the HHS risk management team. BGOV's Chris Cornillie has more in this week's exclusive sto

Speaking of efficiencies, the General Services Administration has consolidated its acquisition schedules progra move away from simply providing goods and services to helping agencies “find solutions through a new federal marketplace,” GSA administrator Emily Murphy said during a recent conference, where she shared the agency' progress. Murphy said the ultimate goal is to use technology to achieve maximum productivity.

In other news…A group dubbed "Employees of Microsoft" is urging the tech giant not to bid on the Pentagon's billion JEDI cloud contract. The group cited ethical concerns, saying Microsoft employees don’t know the poten negative effects of the code they write. Earlier this month, Google raised similar issues about the cloud contrac dropped out of the competition.

And so, the JEDI saga continues. We’ll be following this story as it develops. In the meantime, keep reading!



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Next.2018

Save The Date For A First Look At Tech And Government Post-Election: What Changed

Join Bloomberg Government this November 13-15 for critical conversations about the intersection of innova technology, and policy one week after the midterm elections.

This year Next.2018 is expanding to the InterContinental at The Wharf in D.C., and will bring together busir leaders, tech pioneers, and Capitol Hill policy makers to discuss emerging technologies that change the wa live, the complex relationship between Capitol Hill and Big Tech, the impact of the digital revolution on rural underserved communities, and the disruption that machine learning and AI can bring to employment.

Join the conversation this November. To register, click here.

Get Smart

“Conservatively, we’re estimating a [return on investment] of over 800 percent over four years based o savings at the point of purchase. We’re also expecting to see indirect savings through simplifying the acquisition process and modernizing using cloud capabilities.”

—Jose Arrieta, associate deputy assistant secretary at the Department of Health and Human Services, on usin blockchain tool for price comparisons

Read more in this week's exclusive from Bloomberg Government.

Beyond Legacy

USDA Aims to Be 'Most Effective' Agency
The U.S. Department of Agriculture is determined when it comes to its IT modernization efforts. The agency rec launched phase two of a program focused on IT improvements and has put in place a "very aggressive plan," a to USDA deputy secretary Steve Censky. Read more.

TSA Unveils Biometrics Roadmap
The Transportation Security Administration and Customs and Border Protection are working together on facial recognition technology, which will be implemented at airports across the country. A new biometrics roadmap ou exactly how identity verification is expected to evolve. Read more.

Eye on Security

Several Agencies Aren't Using Basic Email Security
Federal agencies had until Oct. 16 to adopt DMARC, an email authentication, policy, and reporting protocol. Bu data shows that the CIA, NSA and the Defense Department are among agencies that have yet to roll out the er security feature across their web domains. Read more.

IoT Security Standards Lacking in Government
Sen. Mark Warner is worried about cybersecurity risks surrounding the internet of things and says Congress ne act on an IoT security bill he introduced more than a year ago. At the moment, all-encompassing standards or guidelines for IoT security don't exist in the U.S. Read more.

Big Contracts

DISA Invests $6.5B in Telecom Services
The Defense Department's information and communication technology systems will be making its IT and telecommunication services purchases under a new contract. The Defense Information Systems Agency increa contract's value and just released a final request for proposal. Read more.

FBI Has New Plan for $5B IT Recompete

The FBI has come up with a different strategy for awards on its upcoming centralized IT supplies and support s contract, which has been getting smaller throughout the year. The agency said it will no longer hold a full and o competition as originally planned. Read more.

Strategy & Leadership

Why Agencies Can't Keep Their IT Leaders
According to Mark Kneidinger, deputy director of Homeland Security's new National Risk Management Center, average tenure of agency IT modernization leaders keeps shrinking and the government's "revolving door" is to Read more.

NSF Wants to Give Federal Workforce 'Maximum Mobility'
The National Science Foundation is planning to build an app that allows federal employees to continuously lear technologies and find future jobs. The agency's goal is to reskill the federal workforce for new roles, especially i cybersecurity and IT fields. Read more.

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Message

From: Tom Davis Ex. 6
Sent: 10/18/2018 12:19:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: Nov 13-14 Roundtable

Thanks ...

Tom Davis

Box 247
Tilghman, MD 21671
202-262-1630 (cell)
410-886-1009 (office)

Email: Ex. 6

On Thursday, October 18, 2018, 8:16:34 AM EDT, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Thank you. I'm trying to determine if we'll be on travel those couple of days after Veterans Day. Let me really get on this to get this figured out.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 18, 2018, at 8:13 AM, Tom Davis < Ex. 6 > wrote:

> Good morning,
> Your dinner talk in April was terrific and we would like to get a fill in from you again after all the changes...Nov 13 at the Press Club. drinks and dinner.(again, no press)
> Please let me know if you can be available.
> Thanks
>
>
> ## Tom Davis
>
> **Box 247**
> **Tilghman, MD 21671**
> **202-262-1630 (cell)**
> **410-886-1009 (office)**
>
> *Email:* Ex. 6
>

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 10/24/2018 9:02:53 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
CC: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: letter to Andrew Wheeler
Attachments: 10-25-18TCDFEJMtoEPADOTEISApreemptionwithattachments.pdf

Good morning

Please see the attached

Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

United States Senate

WASHINGTON, DC 20510

October 25, 2018

The Honorable Elaine L. Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20530

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1301 Constitution Ave. NW
Washington, DC 20460

Dear Secretary Chao and Acting Administrator Wheeler:

We write regarding your proposals to dramatically weaken the fuel economy and greenhouse gas tailpipe standards for cars and light trucks. These proposals additionally seek to remove California's authority to set and enforce its own greenhouse gas tailpipe standards, wrongly asserting that California's authority is preempted by the Energy Policy and Conservation Act (EPCA), as amended by the 2007 Energy Independence and Security Act (EISA).

As elected officials who were deeply involved in the negotiation of the fuel economy provisions of EISA, we can attest to Congress' intent that California's authority under the Clean Air Act be preserved. Not only did Congress include a broadly worded savings clause that expressly retains all authorities conferred by environmental laws,[1] we did so in rejection of several alternative proposals to preempt California's authority. This intent was clearly expressed by two[2] of us[3] during the provisions' December, 2007 consideration on the House and Senate Floors.

This letter transmits contemporaneous emails and other documents that demonstrate unequivocally that in the month before EISA was enacted, there were repeated efforts on the part of the automobile industry, some Members of Congress and the Bush Administration to preempt, limit or otherwise constrain both EPA's and California's authority under the Clean Air Act. All of these efforts were rejected, and were not included in the enacted law.

Specifically, these materials (also attached) include:

- Several draft legislative proposals shared by representatives of Cerberus[4] in late-November, 2007 that sought to constrain EPA's authority to set greenhouse gas tailpipe standards for cars and light trucks, and remove California's authority to do the same.
- A November 30, 2007 press release that describes the Congressional agreement on the fuel economy provisions of EISA.
- Two December, 2007 Statements of Administration Policy issued by the Bush White House that threatened a Presidential veto of EISA, in part because it did not eliminate EPA's Clean Air Act authority to set greenhouse gas tailpipe standards for cars and light

[1] See 42 USC 17002.

[2] https://www.gpo.gov/fdsys/pkg/CREC-2007-12-06/pdf/CREC-2007-12-06-pt1-PgH14434-2.pdf. See page 10 for the remarks of then-Congressman Edward. J. Markey

[3] https://www.gpo.gov/fdsys/pkg/CREC-2007-12-13/pdf/CREC-2007-12-13-pt1-PgS15385.pdf. See page 2 for the remarks of Senator Feinstein and the late Senator Inouye

[4] At the time, Cerberus had purchased Chrysler, and hired Patton Boggs to represent them. See, for example, http://www.pressreader.com/usa/the-detroit-news/20070718/282651798082147

trucks in order to abrogate the Supreme Court's decision earlier that year in *Massachusetts v. EPA*.

- Draft legislative language proposed in mid-December, 2007 that sought to prevent EPA from setting more stringent greenhouse gas tailpipe standards for cars and light trucks than the fuel economy standards that would be set by the Department of Transportation.
- A press release issued on the date EISA was signed into law acknowledging that the new law did not include any provisions that impacted EPA's or California's authority to set greenhouse gas tailpipe standards for cars and light trucks.

Your Agencies' proposals that assert that California's Clean Air Act authority is preempted by EPCA (as amended by EISA) are starkly contradicted by the body of case law interpreting the interplay between EPCA, Clean Air Act[5], State waivers under the Clean Air Act, and the legislative history of both acts. That history affirms that EPCA's preemption provisions simply do not apply to pollution standards applicable to new motor vehicles, including greenhouse gas pollution standards, set by EPA or by California acting pursuant to a Clean Air Act waiver. The documents we are transmitting today also make clear that Congress considered, and ultimately rejected, language that would have eliminated or otherwise constrained this authority, even when faced with two Presidential veto threats. We urge you to abandon your legally flawed proposal, and instead support efforts to identify and finalize a consensus approach to fuel economy and greenhouse gas tailpipe standards that has the support, and preserves the authority of, the State of California.

Thank you very much for your attention to this important matter. If you have any questions or concerns, please have your staff contact Michal Freedhoff of the Environment and Public Works Committee staff, at 202-224-8832, Trevor Higgins of Senator Feinstein's staff, at 202-224-3841 or Morgan Gray of Senator Markey's staff, at 202-224-2742.

With best personal regards, we are,

Sincerely yours,

Tom Carper
United States Senator

Dianne Feinstein
United States Senator

Edward J. Markey
United States Senator

[5] See for example *Massachusetts v. E.P.A.*, 549 U.S. 497, 532 (2007), which stated that the two statutory directives "may overlap, but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency", and *Central Valley Chrysler-Jeep, Inc. v. Goldstene*, 529 F. Supp. 2d 1151, 1177 (E.D. Cal. 2007); *Green Mountain Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F. Supp. 2d 295 (D. Vt. 2007), which both held that EPCA does not preempt California's standards.

From: [redacted] <[redacted]@PattonBoggs.com>
Sent: Tuesday, November 20, 2007 4:38 PM
To: Freedhoff, Michal
Subject: GHG Amendment
Attachments: WASHINGTON-#4911620-v16-GHG Rulemaking Nov 20.DOC¤.DOC

Importance: High

Here you go, will call in a few...

[redacted]

-----Original Message-----
From: Freedhoff, Michal [mailto:Michal.Freedhoff@mail.house.gov]
Sent: Tuesday, November 20, 2007 4:37 PM
To: [redacted]
Subject: RE: this dear colleague just went out

Great. Talk soon then.

Michal Ilana Freedhoff, Ph.D.
Policy Director
Office of Representative Edward J. Markey (D-MA)
2108 Rayburn House Office Building
Washington, DC 20515
202-225-2836

-----Original Message-----
From: [redacted] [mailto [redacted]@PattonBoggs.com]
Sent: Tuesday, November 20, 2007 4:35 PM
To: Freedhoff, Michal
Subject: Re: this dear colleague just went out

You will have it momentarily - and a call from me as well.
[redacted]

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Freedhoff, Michal <Michal.Freedhoff@mail.house.gov>
To: [redacted]
Sent: Tue Nov 20 16:33:22 2007
Subject: RE: this dear colleague just went out

Happy to do so, I talk to him frequently. But it would help to have language....

Michal Ilana Freedhoff, Ph.D.
Policy Director
Office of Representative Edward J. Markey (D-MA)
2108 Rayburn House Office Building
Washington, DC 20515
202-225-2836

-----Original Message-----
From: [redacted] [mailto[redacted]@PattonBoggs.com]
Sent: Tuesday, November 20, 2007 3:14 PM
To: Freedhoff, Michal
Subject: Re: this dear colleague just went out

Please tlk to Matt Nelson on GHG rulemaking we talked about, please.

We are finishing with him now.

[redacted]

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Freedhoff, Michal <Michal.Freedhoff@mail.house.gov>
Sent: Tue Nov 20 14:42:37 2007
Subject: this dear colleague just went out

November 20, 2007

STUDY: CARS & TRUCKS - SAME SIZE, SAME FUEL ECONOMY

Support the Senate Fuel Economy Provisions

Dear Colleague:

Recently, you may have heard from certain auto industry lobbyists that eliminating the 'light-truck loophole,' which allows cars used for transporting people to be classified as trucks for purposes of fuel economy standards, "is a recipe for disaster." The basis for this assertion is that cars and trucks that are the same size should not have to meet the same fuel economy standard because of the different performance requirements of SUVs, minivans and pickups trucks.

Well guess what? It turns out that cars and trucks that are the same size ALREADY have the same fuel economy. Analysis recently conducted by Meszler Engineering Services plotted the size of EVERY SINGLE 2007 car and light truck against its fuel economy. Result? The "average" car fuel economy differs from the "average" truck fuel economy by only 1 mile per gallon - for every vehicle size.

The complaint raised by the Detroit companies is yet another red herring unsupported in any way by the facts. Don't be fooled. Support the Senate fuel economy language. For a copy of the study or more information, please have your staff contact Michal Freedhoff (Rep.

Attachment to 11/20/07 4:38 PM email

November 20, 2007

DRAFT AMENDMENT

On page 396, strike lines 1 through 4 and insert:

SEC. 519. GREENHOUSE GAS VEHICLE EMISSIONS REGULATIONS.

Chapter 329 of title 49, United States Code, is amended by adding a new section 32920 as follows:

"§ 32920. Greenhouse Gas Vehicle Emissions Regulations.

"(a) IN GENERAL.--Notwithstanding any other provision of law or regulation, should the Administrator of the Environmental Protection Agency (hereinafter "the Administrator") promulgate regulations applicable to emissions of greenhouse gases from automobiles, the Administrator shall promulgate regulations subject to the requirements set forth in subsections (b) and (c), and (d). Subject to subsections (b), (c), and (d), the Administrator may amend the regulations subsequent to their initial promulgation.

"(b) CONSULTATIONS.--In promulgating or amending regulations under this section, the Administrator shall consult with the Secretary of Transportation (hereinafter "the Secretary"). Before issuing a notice proposing to prescribe or amend regulations under this section, the Administrator shall give the Secretary at least 30 days from the receipt of the notice during which the Secretary may, if the Secretary concludes the proposed regulations would conflict with fuel economy standards established by the Secretary under section 32902 or vehicle safety standards established by the Secretary under section 30111 of this title, provide written comments to the Administrator regarding those concerns. To the extent that the Administrator does not revise a proposed regulation to take into account the Secretary's comments on any adverse impact of the standard, the Administrator shall include those comments in the notice. Before taking final action on a regulation under this section, the Administrator shall provide the Secretary a reasonable time to comment.

"(c) MAXIMUM FEASIBLE REDUCTIONS.--Any regulations promulgated or amended pursuant to subsection (a) shall result in standards to achieve the maximum feasible reduction of emissions through the use of technology that is or will be available for the model year to which the standards apply. Such standards shall be based on vehicle attributes related to fuel economy and emissions reductions. In determining the maximum feasible reduction of emissions pursuant to this subsection, the Administrator shall consider technological feasibility, economic practicability (including maintaining consumer choice and employment in the domestic automobile industry), the impact of the regulations on fuel economy standards established by the Secretary under section 32902, and the preservation or enhancement of vehicle safety.

"(d) LEAD TIME AND STABILITY.--Any standard promulgated or amended under subsection (a) shall—

"(1) take effect after such period as the Administrator finds necessary to permit the development and application of new technology, giving appropriate consideration to the cost of compliance within such period; and

"(2) apply for a period of no less than 2 model years beginning no earlier than the model year commencing 4 years after such revised standard is promulgated; *provided*, That an amendment that reduces the stringency of a standard may take effect as early as immediately.

"(e) STATE AND POLITICAL SUBVISION AUTOMOBILES.--A State or a political subdivision of a State may prescribe requirements for greenhouse gas emissions for automobiles obtained for its own use.

"(f) DEFINITION.--The term 'greenhouse gas' means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.".

From: [redacted]@PattonBoggs.com>
Sent: Wednesday, November 28, 2007 8:34 PM
To: Freedhoff, Michal
Subject: Language - GHG Rulemaking

Here you go: Its my understanding that there may be another iteration that may have been passed along, though not from us.

Chapter 329 of title 49, United States Code, is amended by adding a new section 32920 as follows:

"§ 32920. Greenhouse Gas Vehicle Emissions Regulations.

" IN GENERAL.--Notwithstanding any other provision of law or regulation, should the Administrator of the Environmental Protection Agency (hereinafter "the Administrator") promulgate regulations applicable to emissions of greenhouse gases from automobiles, the Administrator shall ensure that such regulations are fully consistent with Section 32902 of this title and any standards or regulations promulgated or enforced thereunder.

Sent from my BlackBerry Wireless Handheld

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From: [redacted]@PattonBoggs.com>
Sent: Thursday, November 29, 2007 12:17 PM
To: Freedhoff, Michal
Subject: GHG Language

Importance: High

[redacted]
>
[redacted]
> **********
>
>
> What was proffered:
>
> Chapter 329 of title 49, United States Code, is amended by adding a
> new section 32920 as follows:
>
> "> § 32920. Greenhouse Gas Vehicle Emissions Regulations.
>
> "> IN GENERAL.--Notwithstanding any other provision of law or
> regulation, should the Administrator of the Environmental Protection
> Agency (hereinafter > "> the Administrator> ">) promulgate regulations applicable to emissions of greenhouse gases from automobiles, the Administrator shall ensure that such regulations are fully consistent with Section 32902 of this title and any standards or regulations promulgated or enforced thereunder.
>
> What we (Patton Boggs) propose as compromise:
>
> "§ 32920. Greenhouse Gas Vehicle Emissions Regulations.
>
> "(a) IN GENERAL.--Notwithstanding any other provision of law or
> regulation, should the Administrator of the Environmental Protection Agency promulgate regulations applicable to emissions of greenhouse gases from automobiles, the Administrator shall consider the impact of the regulations on fuel economy standards established by the Secretary under Chapter 329 and any regulations promulgated or enforced thereunder."
> "(b) STATE AND POLITICAL SUBVISION AUTOMOBILES.--A State or a political subdivision of a State may prescribe requirements for greenhouse gas emissions for automobiles obtained for its own use.
> "(c) DEFINITION.--The term 'greenhouse gas' means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
> "(d) SAVINGS CLAUSE.--Nothing in this title shall be construed to diminish existing authority of any State or political subdivision thereof under section 209 of the Clean Air Act (42 USC 7543).".
>

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FOR IMMEDIATE RELEASE:
Friday, November 30, 2007

Contact: Scott Gerber (Feinstein) 202/224-9629
John Gentzel (Snowe) 202-224-8667
Jenilee Keefe (Inouye) 202-224-0411

Landmark Bipartisan Agreement to Increase Fuel Economy Standards Reached

- Agreement would raise fleet-wide fuel economy standards to 35 mpg by 2020 -

Washington, DC – A landmark, bipartisan agreement on increasing fuel economy standards has been reached by key Senate and House negotiators.

"The House and Senate have reached an historic agreement that achieves the first major mileage efficiency increase in two decades. It will increase the mileage of the overall fleet of vehicles by 10 miles per gallon over 10 years," Senator Feinstein said. **"We have been able to reach an agreement with the House that achieves the goal of the 10-in-10 Fuel Economy Act, without affecting the integrity of the bill.**

"It is a major milestone and the first concrete legislation to address global warming. Transportation produces about a third of global warming gases in the United States, and this bill addresses cars, light trucks, SUVs, and medium and heavy trucks – which account for the vast majority of transportation emissions. The standards are estimated to remove 192 million metric tons of global warming pollution in 2020, a savings that will continue to increase in subsequent years.

"This agreement is the culmination of years of hard work – and so many people contributed to this effort. I'd like to thank the cosponsors of the Feinstein-Snowe 10-in-10 Fuel Economy Act: Senators Inouye and Stevens, Boxer, Cantwell, Collins, Durbin, Kerry, Lautenberg, Lieberman, Menendez, Bill Nelson, Akaka, Cardin, Dodd, Leahy, Jack Reed, Sanders. I'd also like to thank Senators Alexander, Carper, Corker, Craig, Dole, Dorgan, Hagel, Klobuchar, Lott, Sununu, and Chairman Markey for their contributions to this effort.

Special thanks go to Inouye and Stevens who showed tremendous leadership as Chairman and Vice-Chairman of the Commerce Committee; Speaker Pelosi, who was determined from the very beginning to get this done; Chairman Dingell for the agreement; and all the others who have worked on this issue over the years.

"America's energy policy has been dormant for far too long, and tonight's agreement is a significant step in reviving our nation's commitment to America's

environment and security," Senator Snowe said. **"Improving our fuel efficiency by 40 percent will do immeasurable benefits to mitigating our addiction to oil, and I strongly urge the President and my colleagues in the Senate to expeditiously pass this historic legislation."**

"Increasing fuel economy standards places the country on a bright path toward reducing our nation's dependence on foreign oil, protecting the environment, and helping consumers deal with rising gas prices," Senator Inouye said.

The agreed-upon legislation stems from legislation introduced earlier this year by Senators Dianne Feinstein (D-Calif.) and Olympia Snowe (R-Maine) – the "Ten in Ten Fuel Economy Act."

By 2025, the fuel economy increases for cars and light-duty trucks would:

- **Save 1.1 million barrels of oil saved per year,** or nearly half the oil imported by the United States today from the Persian Gulf. (Union of Concerned Scientists)

- **Remove 192 million metric tons of global warming pollution in 2020**, a savings that will continue to increase in subsequent years. (Union of Concerned Scientists)

- **Save American families $700 - $1000 per year at the pump,** depending on driving habits, (based on a $3.00 gas price). By 2020, the standards are estimated to save consumers $22 billion in net consumer savings in that year alone, a savings that will continue to increase in subsequent years.

Summary of the Agreement

10-in-10: Increases Fuel Economy Standards for All Vehicles

- Beginning in 2011, the National Highway Traffic Safety Administration (NHTSA) will annually increase the nationwide average fleet fuel economy standards for cars and light trucks to achieve a standard of 35 miles per gallon (mpg) by 2020. This will be the first statutory fuel economy increase for passenger cars since 1975.

- For the years 2021-2030, car and light truck fuel economy standards will increase at the maximum feasible rate.

- For the first time, NHTSA will establish a program for medium and heavy duty trucks under which fuel economy standards will improve at the maximum feasible rate.

- NHTSA will establish a separate fuel economy standard for work trucks that will increase their fuel efficiency at the maximum feasible rate.

Ensures Fuel Economy Standards Will Be Reached

- The compromise eliminates the "off-ramp," which ensures that NHTSA will mandate a fuel economy standard of 35 mpg by 2020.

- The compromise eliminates the low volume manufacturer exception, which would have allowed any company that sells less than approximately 64,000 cars and trucks a year in the United States to be exempt from the 35 mpg by 2020 fuel economy standard.

Labor Protections

- The compromise inserts domestic car production rules intended to encourage continued production of small cars in the United States.

Manufacturer Flexibility

- The compromise phases out the flexible fuel vehicle (FFV) credit on the following schedule:

  2011: 1.2 mpg
  2012: 1.2 mpg
  2013: 1.2 mpg
  2014: 1.2 mpg
  2015: 1.0 mpg
  2016: 0.8 mpg
  2017: 0.6 mpg
  2018: 0.4 mpg
  2019: 0.2 mpg
  2020: 0 mpg

- NHTSA must tailor attainable fuel economy standards based on the physical attributes of particular models of cars and light trucks. Cars and light trucks will be accounted for on a separate basis.

- The compromise gives manufacturers the ability to trade extra fuel economy credits earned between the passenger car and light truck fleets when the performance of either fleet exceeds the standards. The amount of credit traded would be limited.

- Automakers will have the flexibility to borrow against future fuel economy gains up to 3 years in the future and to carry forward earned fuel economy credits earned for up to 5 years.

Improved Consumer Information

- Automakers will be required to provide improved fuel economy and emissions information to consumers. A label will be prominently placed on each vehicle that includes information on the fuel economy of the automobile and the greenhouse gas and other emissions consequences of operating the automobile over its likely useful life.

- The deal also includes improved consumer information on tire fuel efficiency, safety, and durability, and increased consumer awareness of flexible fuel automobiles.

###

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 6, 2007
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 6 – Energy Independence and Security Act of 2007
(Rep. Rahall (D) WV and 198 cosponsors)

In his 2007 State of the Union Address, President Bush announced the "Twenty in Ten" Initiative, a plan to reduce projected gasoline usage in the United States by 20 percent in 10 years. "Twenty in Ten" called on Congress to pass legislation that would: (1) establish an Alternative Fuel Standard requiring the equivalent of 35 billion gallons of alternative fuels by 2017; and (2) provide the Department of Transportation (DOT) authority to increase fuel economy standards for cars under a reformed structure (CAFE reform) based on sound science, safety, and cost-benefit analysis.

The Administration appreciates that Congress, in response to the President's call, has produced a bill including aspects of the "Twenty in Ten" initiative. Unfortunately, the bill contains several highly objectionable provisions that would impose higher costs on American taxpayers, electricity consumers, and businesses. Specifically, the bill raises taxes in a way that will increase energy costs facing consumers. It would also impose a national renewable electricity standard that would ignore the specific energy and economic needs of individual States. If H.R. 6 were presented to the President in its current form, his senior advisors would recommend that he veto the bill.

The Administration's principal objections to H.R. 6 are described below.

Fuel Economy Standards (CAFE): The Administration supports significant increases in fuel economy standards, and has proposed such increases in the "Twenty in Ten" initiative; it soon will propose such increases by administrative rulemaking. Unfortunately, H.R. 6 leaves ambiguous the role of the Environmental Protection Agency (EPA) in regulating vehicle fuel economy, and as a result would likely create substantial regulatory uncertainty, confusion, and duplication of efforts. The bill could also delay effective implementation of new fuel economy requirements due to inevitable litigation. The double regulation that would result from this failure to clearly identify the relative roles of EPA and DOT in national fuel economy regulations could greatly undermine our shared objective of rapidly reducing gasoline consumption. The bill needs to clarify one agency as the sole entity, after consultation with other affected agencies, to be responsible for a single national regulatory standard for both fuel economy and tailpipe greenhouse gas emissions from vehicles.

Alternative/Renewable Fuel Standards (AFS/RFS): The "Twenty in Ten" initiative contained an ambitious alternative fuel standard to displace 35 billion gallons of gasoline consumption by 2017. H.R. 6's prescriptions regarding the greenhouse gas content of approved fuels lack flexibility, and would interfere with the bill's ability to facilitate alternative fuel generation. The

bill would fragment the market by picking and choosing among fuel types instead of relying on market forces to develop new, more advanced technologies and the next generation of fuels with lower greenhouse gas emissions. Additionally, a new alternative fuel standard should include an effective safety valve, should be technology neutral, and should rely on market innovation instead of excessive statutory prescription. The safety valve included in the bill is inadequate to its purpose. Whereas a properly functioning safety valve would limit price distortions arising from an alternative fuel mandate, the safety valve in H.R. 6 would be too limited to function effectively, being triggered only in the event that a single fuel (cellulosic ethanol) fails to meet prescribed production targets. Finally, the AFS/RFS programs established by this legislation must clearly be granted exclusivity over all other Federal, State, and local laws and regulations relating to alternative fuels.

Renewable Electricity Standards: The bill would impose a national renewable electricity standard (RES) for power generation, which the Administration previously has stated would be strongly opposed. A one-size-fits-all Federal RES would result in higher electricity costs for consumers in areas where renewable resources are less available and could place new strains on electricity reliability. Such a Federal RES mandate ignores the specific energy and economic needs of individual States. There are significant regional differences in availability, amount, and types of renewable energy resources, resulting in different regions of the country relying on different fuel mixes for their electric generation needs. As a result, standards are best left to the States' discretion. Efforts created by and tailored to individual States have led to a significant increase in lower-carbon power generation nationwide, including a four-fold increase in wind power from 2000 to 2006. The bill arbitrarily chooses certain technologies with low-carbon emission profiles, while excluding many existing and emerging technologies that perform similarly. Today, almost 30 States have portfolio standards. A Federal RES that is unfair in its applications and prescriptive in its definition will hurt consumers and undercut decisions States have made and are making.

Taxes: The Administration strongly opposes raising taxes in a way that will lead to higher energy costs to U.S. consumers and businesses. Furthermore, the Administration strongly opposes using the Federal tax code to single out specific industries for punitive treatment. For example, repealing the manufacturing deduction for certain oil and gas companies is a targeted tax increase that puts U.S. firms at a disadvantage relative to their foreign competitors. Changes to the foreign tax credit rules related to foreign oil and gas extraction income and foreign oil-related income will also disadvantage U.S.-based companies by reducing their ability to compete for investments in foreign energy-related projects.

As indicated in previous communications, the Administration supports an extension of the Secure Rural Schools program provided it is appropriately offset with spending reductions and that payments are phased out over time, which the provision in this bill does not achieve. The Administration also opposes shifting the Payment in Lieu of Taxes (PILT) program from discretionary to mandatory spending.

H.R. 6 also includes expensive and highly inefficient tax credit bonds for renewable energy production and conservation efforts. Current law already provides sufficient Federal assistance to encourage these efforts.

ED_002480_00057522-00014

Davis-Bacon: H.R. 6 is contrary to the Administration's long-standing policy of opposing any statutory attempt to expand or contract the applicability of Davis-Bacon prevailing wage requirements. One example, among others, is Section 136, which would impose a new Davis-Bacon requirement for loans made under the Advanced Technology Vehicles Manufacturing Incentive Program.

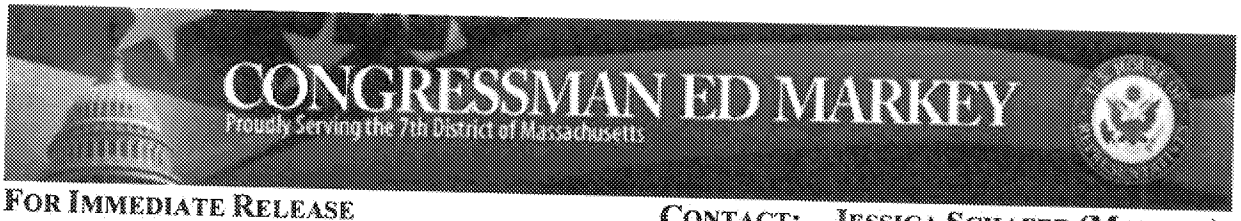
High Performance Federal Buildings: The requirements of this subtitle are less flexible, more limiting, and inconsistent with the timelines of the High Performance Buildings goals of Presidential Executive Order 13423. E.O. 13423 includes additional building attributes beyond the energy efficiency and water consumption goals of the subtitle. These additional elements of the E.O., such as daylighting, building materials, and indoor air quality, are important to creating truly sustainable high performance buildings. E.O. 13423 also accounts for possible extenuating circumstances that keep an agency from meeting a goal in a particular year by allowing them to make it up in subsequent years to still achieve the overall goal of 30 percent reduction of energy intensity by 2015.

Additional Concerns: The Administration strongly opposes unnecessary and duplicative new Federal energy efficiency programs. These include provisions that would establish unnecessary new bureaucracies and impose unrealistic deadlines for promulgation of appliance standards, which conflict with existing court orders. Also highly objectionable are provisions that would establish unnecessary and duplicative workforce training programs and provisions that would unnecessarily increase taxpayer-funded subsidies for small business programs. Among the most problematic of these is a provision that would create a renewable fuel investment company program, providing subsidized venture capital where government assistance is not needed, in a manner that is likely to result in high taxpayer cost. The Administration strongly opposes provisions that are inconsistent with Federal credit policy, which would increase risk and displace private sector credit markets at the taxpayers' expense. Finally, the bill contains several provisions that would raise constitutional concerns.

* * * * *

ED_002480_00057522-00015

From: Schafer, Jessica
Sent: Friday, December 07, 2007 4:03 PM
Subject: MARKEY: President Threatens to Undo Fuel Economy Deal



FOR IMMEDIATE RELEASE
DECEMBER 6, 2007
http://markey.house.gov

CONTACT: JESSICA SCHAFER (MARKEY)
202-225-2836 OR 202-812-8193
EBEN BURNHAM-SNYDER (SELECT CMTE.)
202-225-4081 OR 202-494-4486

MARKEY: PRESIDENT THREATENS TO UNDO FUEL ECONOMY DEAL

White House Wants to Reverse Supreme Court's Massachusetts v. EPA Global Warming Tailpipe Decision

WASHINGTON, D.C. – Today, Representative Edward J. Markey (D-MA), chairman of the Select Committee on Energy Independence and Global Warming and chief House proponent of raising fuel economy standards to 35 miles per gallon, deplored the White House's Statement of Administration Policy on the Energy Bill. The White House threatened to veto the bill unless Congress reverses the landmark Supreme Court decision in Massachusetts v. EPA that validated the authority of the EPA to cut heat-trapping emissions from cars, trucks and SUVs. Such a move would also imperil the efforts of 17 states, including Massachusetts, that have used their Clean Air Act authority to establish clean car programs.

"As delegates from almost 200 nations meet in Bali to lay the groundwork for a treaty to combat global warming, and an energy bill is now on the table that would raise fuel economy standards for America's vehicles, President Bush has once again shown his utter disregard for the environment, our economy, and the health of our planet," said Rep. Markey. **"By asking Congress to undo the landmark Supreme Court decision in Massachusetts v. EPA, the President has effectively thumbed his nose at the rest of the world.**

"As every other country in the world debates how best to combat the clear and present danger of rising carbon dioxide emissions, the Bush Administration is still trying to make up its mind about whether carbon dioxide emissions pose a danger at all."

On April 2, 2007, the Supreme Court determined in Massachusetts v. EPA that EPA has the authority under the Clean Air Act to regulate carbon dioxide (CO2) emissions from motor vehicles, and that it must do so if it determined that these emissions endangered public health or welfare.

In response to the Supreme Court ruling, the President issued an Executive Order on May 14, 2007, directing EPA to coordinate with the Department of Transportation and other agencies in developing any rule covering greenhouse gas emissions from motor vehicles, and EPA staff have been working hard to conduct the necessary technical analysis and craft a rule by the end of this year.

While the Supreme Court decision said that there was no conflict associated with two agencies having authority over motor vehicle regulations, the President is now threatening to veto the entire energy bill on this question—one that has already been asked and answered by the Supreme Court, and one that would also effectively throw out all of the work the President ordered the EPA to do in May.

The Energy Bill passed by the House of Representatives yesterday directs the Department of Transportation to set fuel economy standards for cars and light trucks of at least 35 miles per gallon by 2020. Despite efforts by auto industry supporters to reverse the April Supreme Court decision, the House chose to preserve EPA's full authority in the bill it passed yesterday.

The White House's December 6, 2007 Statement of Administration Policy on the Energy Bill states that the energy bill "needs to clarify one agency as the sole entity, after consultation with other affected agencies, to be responsible for a single national regulatory standard for both fuel economy and tailpipe greenhouse gas emissions from vehicles."

"The Bush Administration is saying to Congress, 'Please take away the authority I have to cut emissions, so I don't have to,'" concluded Markey. **"It follows years of legal wrangling by the White House to avoid any decisive action on global warming, and now they are willing to take down the entire energy bill with their climate inaction scheme."**

# # #

::::::::::::::::::::::
Jessica Schafer
Communications Director
Congressman Ed Markey (MA-07)
202.225.2836 ofc
202.812.8193 cell

ED_002480_00057522-00017

December 7, 2007

TO THE MEMBERS OF THE UNITED STATES SENATE:

The complexity and broad scope of the energy legislation now under consideration raises several important issues with regard to overlapping regulatory authorities under the Clean Air Act. These issues must be addressed now in order to prevent the unintended triggering of an expansive and costly stationary source control program.

Any effort to establish a low-carbon fuel standard or to control carbon or any other greenhouse gas emissions from vehicles or fuels under the Clean Air Act could cause these substances to be regarded as pollutants subject to regulation more broadly under the Act. Under the provisions of the Act, this in turn would trigger a pre-construction permit program that will affect hundreds of thousands of very small stationary sources that have hitherto not been subject to requirements under the Act. Initial estimates suggest that the majority of small, mid-sized, and large manufacturing businesses—over 300,000 facilities—would potentially become regulated stationary sources. In addition, hundreds of thousands of commercial buildings as well as over a hundred thousand farm operations could be impacted.

The expected transaction and administrative costs of the program for individual sources, states, and the federal government would be unprecedented. Thousands of determinations as to whether the Clean Air Act's regulatory requirements are triggered would be required. Given the potential number of permits and the resulting delay in permit issuance, the construction and modification of plants would likely come to a standstill, causing significant harm to the economy. Even the ability to produce renewable fuels could be hampered through the imposition of lengthy pre-construction permitting requirements.

To address this problem and the broader problem of conflicting and overlapping regulatory authorities, the energy bill now under consideration must do two things. First, the energy legislation must contain explicit language clarifying that nothing in this bill can be construed as triggering the regulation of CO2 or any other greenhouse gas under the Clean Air Act. This will prevent the unintended and costly regulatory program described above from being triggered.

Second, the legislation must address the potential for duplicating and conflicting regulatory requirements by clarifying that carbon dioxide and other greenhouse gases cannot be regulated under Title II of the Clean Air Act. Title II of the Clean Air Act addresses emissions from fuels and vehicles which are the same sources that are subject to requirements under the energy bill. Directing the National Highway Traffic Safety Administration to establish new fuel economy standards could be undermined if those same sources are required to achieve conflicting standards under the Clean Air Act. Given the extraordinary challenge industry may be asked to address, it is only fair that there be one regulatory body and one set of regulatory requirements. Creating duplicative and potentially conflicting regulatory requirements would almost certainly delay the very technology advances sought by the legislation. The vehicle efficiency improvement standard and the alternative fuels provisions in the President Bush's energy proposals and in the energy legislation are preferred approaches to achieving substantial reductions in greenhouse gas emissions while reducing U.S. reliance on foreign energy sources.

Sincerely,

American Forest & Paper Association
American Gas Association
Association of American Railroads
National Association of Manufacturers
National Mining Association
National Petrochemical and Refiners Association
U.S. Chamber of Commerce

From: Frank O'Donnell <cleanairfrank@cleanairwatch.org>
Sent: Wednesday, December 12, 2007 4:29 PM
To: 'Frank O'Donnell'
Subject: Car industry makes its move! -- Sen. Levin floats energy language to kneecap EPA, California and other states

Importance: High

For the past week, many of you have asked me, "what the heck is going on with all these efforts" (the White House, the car companies, the Chamber of Commerce, etc.) with regard to the energy bill and possible "coordination" of the efforts of EPA and DOT

Well now the truth (at least part of it) can be told.

All these letters apparently were an attempt to soften up the Senate leadership – the airstrikes before the ground invasion. But now the ground attack is on.

Language undoubtedly drafted by car company lobbyists is now floating around the US Senate. (See below.) It reportedly is being shopped not just by car companies, but by senators including Michigan's Carl Levin. (See story below.) We understand that the staff of Senator Ted Stevens of Alaska is making similar noises.

The language would require that any move made by the US EPA that could "affect the fuel economy of new motor vehicle engines or new motor vehicle engines" would have to be "consistent" with fuel economy requirements set by the federal Department of Transportation.

In other words, this is a bid to kneecap EPA and states led by California that seek to enforce tougher greenhouse gas standards for motor vehicles. EPA would become subordinate to the Transportation Department. And states like California would be left out in the cold.

The timing is most ironic, given the federal court decision today in California which shot down the very arguments being made by the car companies and their proponents in the Senate.

Look for California and other states to start pushing back against this ground attack.

**

On page 21, insert after line 4, at the end of section 102 (of the soon to be filed Reid substitute):

"(d) APPLICATION WITH CLEAN AIR ACT. – Chapter 329 of title 49, United States Code, is amended by inserting after section 32919 the following:

"Section 32920. Consistent Standards.

"Notwithstanding any other provision of law or regulation, should the Administrator of the Environmental Protection Agency promulgate carbon dioxide emissions regulations under section 202 of the Clean Air Act (42 U.S.C. 7521) that affect the fuel economy of new motor vehicles or new motor vehicle engines, the Administrator shall adopt regulations that are fully consistent with chapter 329 of this title and any standards or regulations promulgated or enforced thereunder.".

"(e) RULE OF CONSTRUCTION – Nothing in the amendments made by this title to chapter 329 of title 49 shall be construed to conflict with the authority provided by section 209 of the Clean Air Act (42 U.S.C. 7543)."

**

Levin Presses CAFE Authority in Energy Debate

By: Geof Koss
CongressNow Staff
Wednesday, December 12, 2007 2:23 PM

Sen. Carl Levin (D-Mich.) is continuing to press for the insertion of language in the Senate energy bill that would clarify the role of two key federal agencies in setting corporate average fuel economy, or CAFE, standards.

"I'm trying to clarify it to make sure there's no conflict," Levin told reporters this afternoon, of the role of the Environmental Protection Agency and the National Highway Transportation Safety Administration, or NHTSA.

The Senate is poised to pass a fleetwide CAFE increase of 35 miles per gallon - the first such increase in 30 years - in the Senate energy bill.

However, lawmakers whose home states are heavy in automobile manufacturing, including Levin and House Energy and Commerce Committee Chairman John Dingell (D-Mich.), as well as the White House, have raised concerns that future EPA rules regulating greenhouse gas emissions from automobiles could cause a conflict with NHTSA, which has historically overseen the CAFE program.

"We've got to try to make it clear that what the EPA is authorized to do is consistent with what everyone agrees should be the number," Levin said of the 35 mpg mandate.

The issue emerged after the Supreme Court earlier this year ruled that EPA has authority under the federal Clean Air Act to regulate greenhouse gas emissions like carbon dioxide.

That landmark ruling has been backed by similar rulings in other federal courts. For instance, a federal judge in California today upheld that state's authority to regulate greenhouse gases under the Clean Air Act in a lawsuit brought by automakers.

The rulings have sparked concerns by the auto industry that they will face conflicting federal CAFE rules as EPA moves to control greenhouse gas emissions from auto tailpipes.

Levin declined to say whether he would withhold support for the larger energy bill over the matter. "For me, it's an important issue," he said.

The White House also raised the issue last week in a Statement of Administration Policy on the energy bill (H.R. 6).

"Unfortunately, H.R. 6 leaves ambiguous the role of the Environmental Protection Agency in regulating vehicle fuel economy, and as a result would likely create substantial regulatory uncertainty, confusion, and duplication of efforts," the statement reads.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 13, 2007
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 6 – Energy Independence and Security Act of 2007 (Reid Amendment)
(Rep. Rahall (D) WV and 198 cosponsors)

The Administration opposes the Reid substitute amendment, which fails to correct many of the highly objectionable provisions identified in previously-issued Statements of Administration Policy on H.R. 6. If H.R. 6 were presented to the President as modified by the Reid substitute amendment, his senior advisors would recommend that he veto the bill.

The Administration strongly opposes the amendment's tax title, which would raise taxes in several ways that will increase energy costs facing consumers. More specifically, the Administration strongly opposes using the Federal tax code to single out specific industries for punitive treatment. Furthermore, the tax increases included in the Reid substitute amendment vastly exceed the amount necessary to offset the estimated revenue reductions arising from the bill's fuel economy provisions. The Administration compliments the Senate for giving the Department of Transportation (DOT) the authority to establish a new CAFE standard, which would both improve fuel economy and reduce tailpipe greenhouse gas emissions. The bill should clarify, however, that DOT should establish this single national regulatory standard, in consultation with the Environmental Protection Agency, and that neither agency should add additional layers of regulation. The Administration also supports an ambitious alternative fuel standard, which should include an effective safety valve, should be technology neutral, and should rely on market innovation instead of statutory prescription. The proposed legislation, however, is excessively prescriptive and fails these tests, picking and choosing among fuel types, and failing to include an adequate safety valve. The Administration also retains several additional concerns previously outlined in the Statements of Administration Policy on the underlying bill. Congress should seize the current opportunity to enact bipartisan legislation to enhance American energy security and to achieve vital goals of the President's "Twenty in Ten" initiative proposed more than ten months ago. The Administration urges Congress to put political considerations aside, to repair the repeatedly noted problems with the energy bill, and to send the President legislation that he can sign.

* * * * *

From: Energy&CommercePress
Sent: Wednesday, December 19, 2007 7:36 PM
Subject: Dingell on EPA decision

NEWS RELEASE
Committee on Energy and Commerce
Rep. John D. Dingell, Chairman

For immediate release: December 19, 2007
Contact: Jodi Seth, 202-225-2927

Dingell on EPA Decision

Rep. John D. Dingell, Chairman of the Committee on Energy and Commerce, made the following statement in response to EPA's decision regarding the California waiver:

"EPA's decision raises serious and important public policy questions about the roles and responsibilities of different agencies at different levels of government.

"For decades, this Committee has carefully examined these issues and we will continue to monitor the situation going forward.

"The energy bill signed into law by the President today takes measurable and concrete steps to reduce greenhouse gas emissions and energy consumption. While the legislation did not explicitly address policy questions relevant to the EPA's decision, these and other matters must be raised as we craft comprehensive climate change legislation next year."

- 30 -

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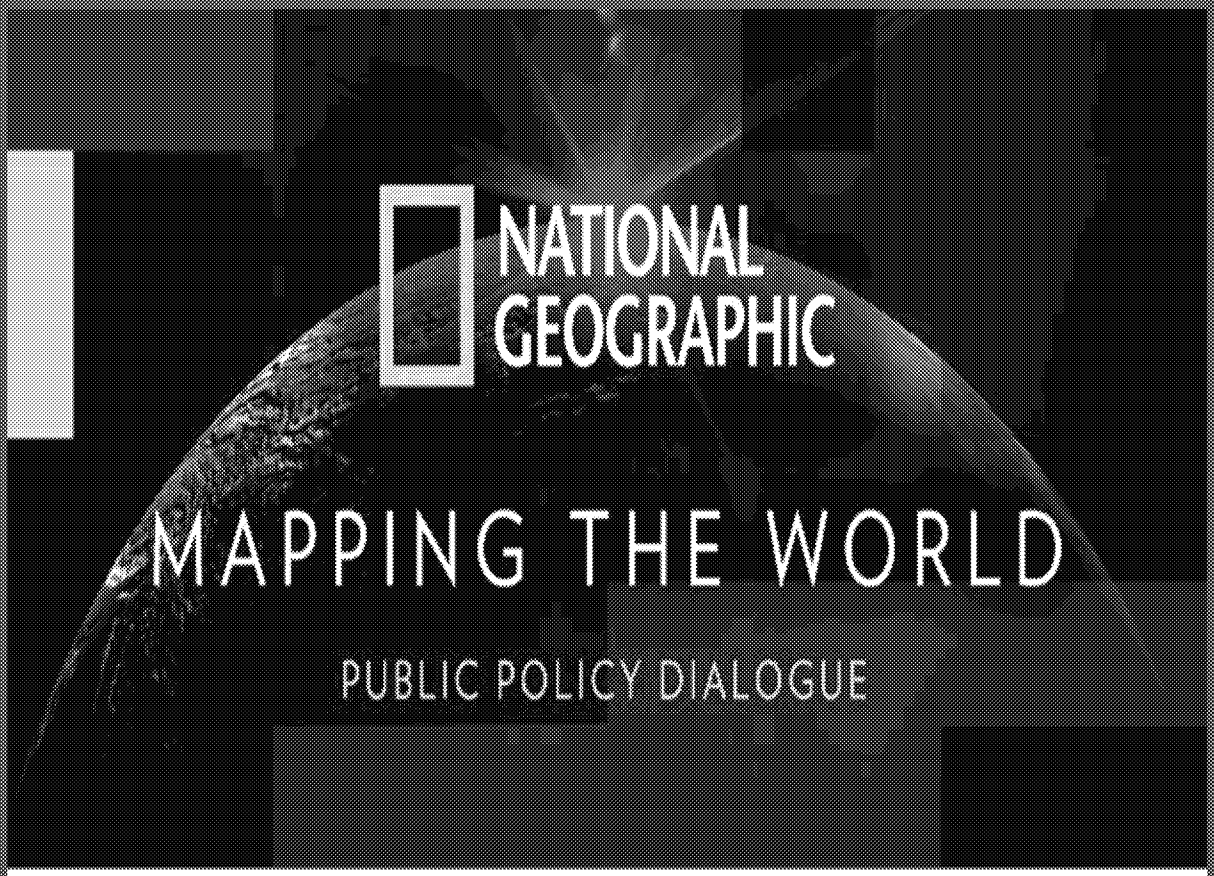
Message

From: National Geographic [info@natgeoforums.org]
Sent: 10/12/2018 2:45:03 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RSVP Reminder: Tuesday's Forum

October 16: National Geographic Forum on Nature Preservation

No Images? Click here



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Please join National Geographic Society President and CEO **Tracy Wolstencroft** for a conversation about the critical role of public lands in the United States. The forum will feature National

Geographic Explorer **Arthur Middleton** and **Senator Cory Gardner** in a dialogue around why these lands matter to the wildlife and wild places Americans value and what we need to do to strengthen and preserve them for future generations.

TUESDAY, OCTOBER 16 | 3:00 - 4:30 PM

Library of Congress, Thomas Jefferson Building - Members Room

10 First Street, SE | Washington, DC 20540

RSVP to info@natgeoforums.org

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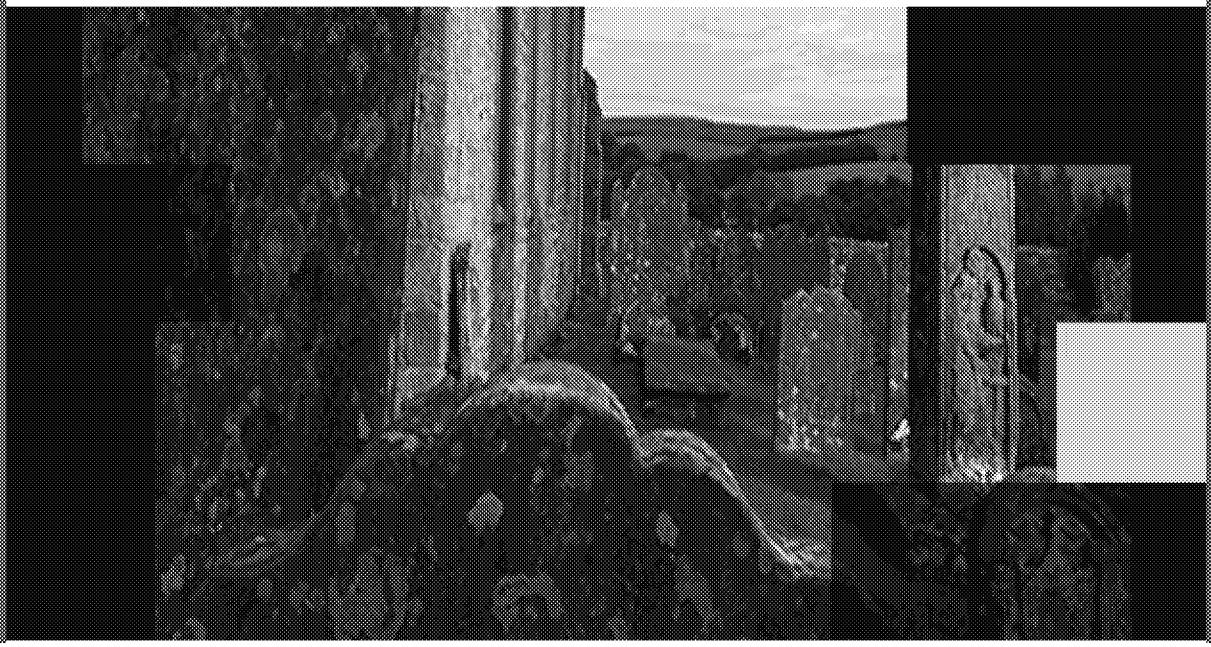

THE HUMAN JOURNEY

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National Geographic Society

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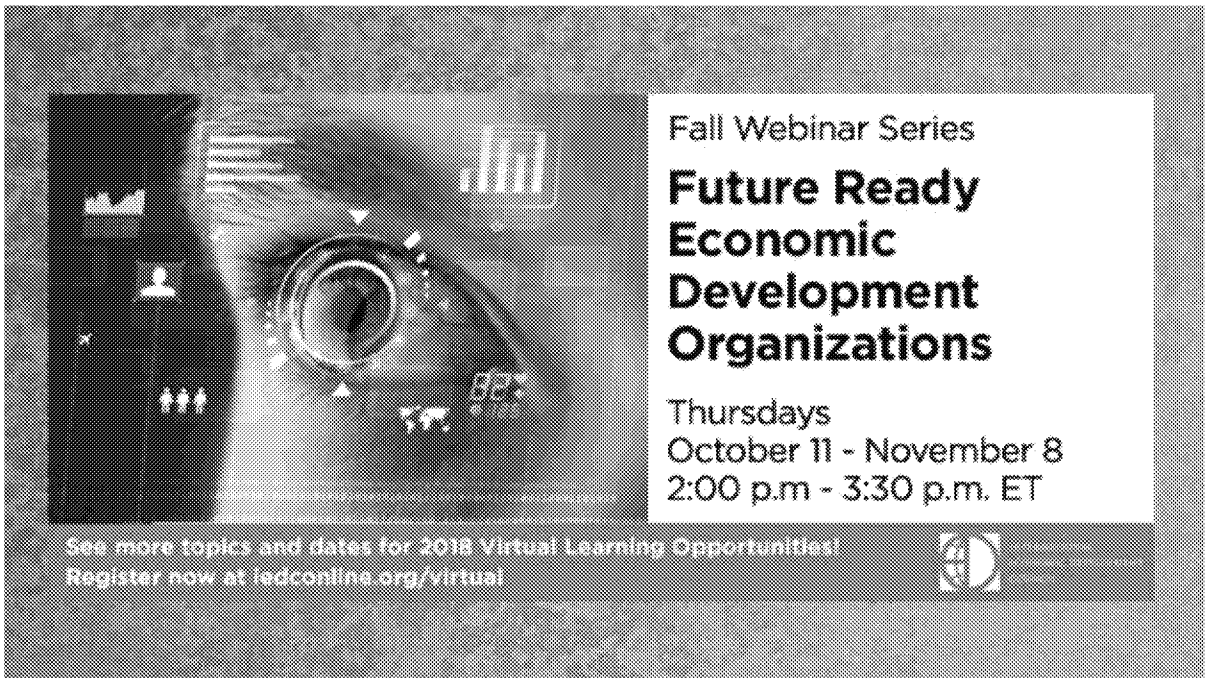
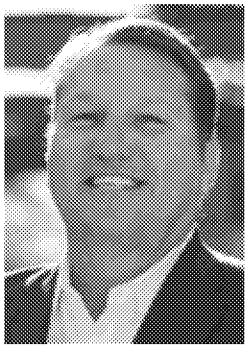
Message

From: IEDC [iedcnews@iedconline.org]
Sent: 10/10/2018 2:02:26 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: The Future Ready Webinar Series Starts Tomorrow!



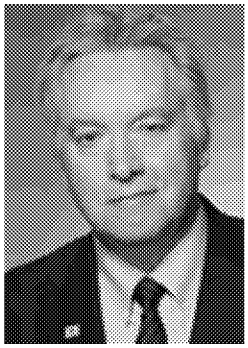
SHARE THIS WEBINAR SERIES:

New Speakers Added!



Ron Kitchens, CEcD
Senior Partner and CEO
Southwest Michigan First
Kalamazoo, MI

Webinar 5: The Future of Economic Development Practices



Mark Lautman, CEcD, CRE, FM, HLM
Economic Architect
Community Economics Laboratory
Albuquerque, NM

Webinar 5: The Future of Economic Development Practices

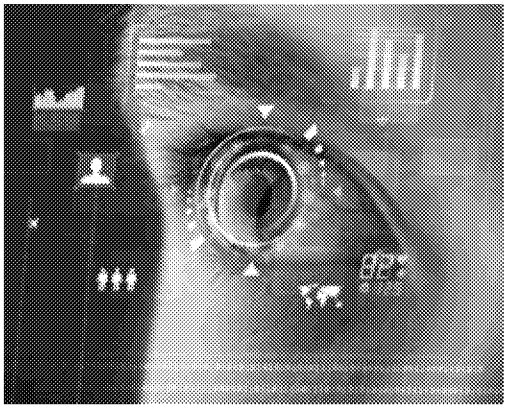
IEDC's **Future Ready Webinar Series** starts tomorrow!

Based on EDRP's latest report **Future Ready: Preparing for Tomorrow's Economy**, the series will explore how technologies like AI, 3D printing, robotics, machine learning, and blockchain will change industries, how we work, and economic development.

- Discover the latest industry, talent, and technology trends and predictions for the future
- Learn from communities that are on the leading edge of preparing for what comes next
- Develop a game plan for how your economic development strategy can become *Future Ready*

Register now and receive a complimentary copy of the Future Ready report (a $75 value).

How Economic Developers are Thinking about the Future - Visioning
Thursday, October 11, 2:00 p.m. - 3:30 p.m. ET

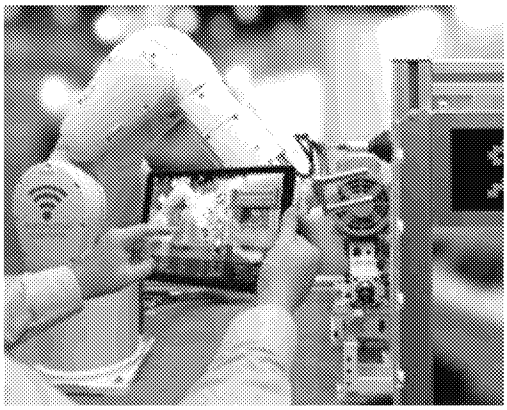


The future is being shaped right now by industries in your own backyard. Connecting your strategy with their vision of the future is essential to your community's health. Learn how to conduct "horizon scanning" by engaging with industry experts and investors, and explore the "Future Ready Framework", a tool designed to help EDOs think about, plan for, and succeed in the future.

The Future of Infrastructure
Thursday, October 18, 2:00 p.m. - 3:30 p.m. ET

What do retail, healthcare, and advanced manufacturing have in common? The answer is infrastructure, whether it be broadband or 'smart' roads and buildings. Economic developers must learn the infrastructure needs of tomorrow's industries to remain competitive. This webinar will examine the needs of emerging industries as well as the changing needs of established industries and how communities are addressing both.

The Future of Work
Thursday, October 25, 2:00 p.m. - 3:30 p.m. ET



Technological advancements will lead not only to more automation across industries, but the creation of new fields with corresponding jobs. Factor in an older and more diverse talent pool, plus the shift toward a gig economy, and it is easy to see a vastly different future of work. Economic developers must begin now to understand and plan for the future needs of workers and employers and help set their community on the path to a successful tomorrow.

The Future of Technology Development and Commercialization
Thursday, November 1, 2:00 p.m. - 3:30 p.m. ET

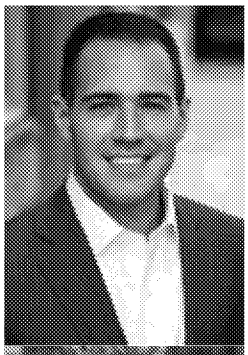
Cities and regions all over the world are experimenting with strategies to establish themselves as hubs for emerging technologies. This webinar will showcase examples of how communities can identify, nurture, and expand

their technology-based brand to attract more talent and business.

<u>The Future of Economic Development Practices</u>
Thursday, November 8, 2:00 p.m. - 3:30 p.m. ET

Economic development practices need to evolve in response to the tectonic shifts projected for the future. Tomorrow's economy will bring jobs and prosperity to those who can correctly spot the changes and adapt their practices. This concluding webinar will examine two shifts that will impact economic development practices significantly: 1) the use of new and emerging technologies in EDOs, and 2) responding to climate change.

Speakers:

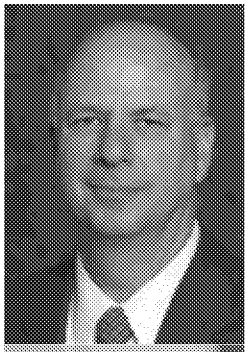


<u>Jon Clifton</u>
Global Managing Partner
Gallup
Washington, D.C.

Webinar 3: The Future of Work

<u>Julie Engel, CEcD</u>
President & CEO
Greater Yuma Economic Development Corporation
Yuma, AZ

Webinar 2: The Future of Infrastructure



Gerald L. Gordon, PhD, FM, HLM
President and CEO
Fairfax County Economic Development Authority
Tysons, VA

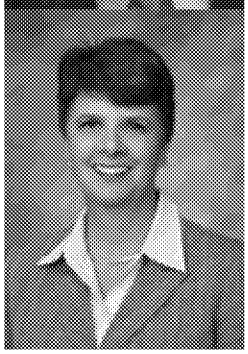
Webinar 1: How Economic Developers are Thinking about the Future - Visioning

Carolyn Hull
Vice President of Industry Cluster Development
Los Angeles County Economic Development Corporation
Los Angeles, CA

Webinar 1: How Economic Developers are Thinking about the Future - Visioning

Norman Jacknis
Senior Fellow, Intelligent Community Forum
Faculty Member, Columbia University
New York, NY

Webinar 5: The Future of Economic Development Practices



Debra Lyons
Principal
Lyons Consulting
Macon, GA

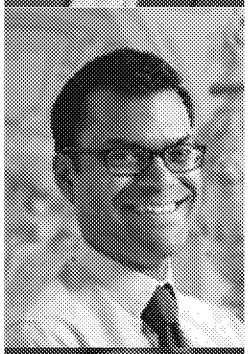
Webinar 3: The Future of Work

Guillermo Mazier
Vice President of Global Innovation
Conway, Inc.
Peachtree Corners, GA

Webinar 4: The Future of Technology Development and Commercialization

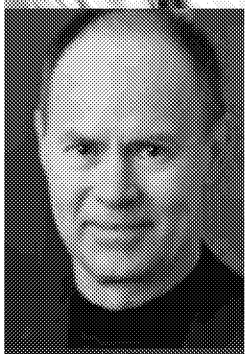
Shane McFeely, PhD
Workplace Researcher
Gallup
Washington, D.C.

Webinar 3: The Future of Work



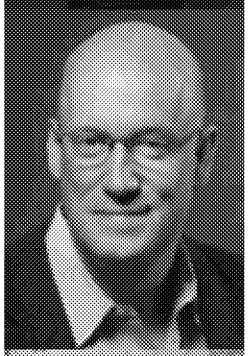
Jay Nath
Co-Executive Director
City Innovate
San Francisco, CA

Webinar 5: The Future of Economic Development Practices



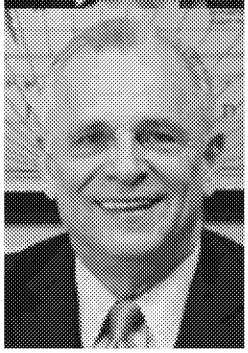
Jon Roberts
Managing Director
TIP Strategies, Inc
Austin, TX

Webinar 4: The Future of Technology Development and Commercialization



David Sandel
Co-Founder
iNeighborhoods
St. Louis, MO

Webinar 2: The Future of Infrastructure



Rick Weddle, FM, HLM (moderator)
President and CEO
Hampton Roads Economic Development Alliance
Norfolk, VA

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Message

From: Kaitlyn Shimmin [paperlesspost@accounts.paperlesspost.com]
Sent: 10/12/2018 7:31:05 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: EPA Family Picnic- Blue Tooth Speakers

Hey guys, can you please let me know if you have blue tooth speakers we can use. And if you have any lawn games or ideas for games please send them my way!

Thanks! - Kaitlyn

You have replied 'Attending'
Change your response

Life Liberty and the pursuit of Barbecue!

PLEASE JOIN US

FOR A

family picnic

SATURDAY OCTOBER 10TH

10:30 AM- 2:00 PM

AT MARKS POINT PICNIC AREA

EPA FAMILY PICNIC

Saturday, October 13th from 10:30 AM to 2:00 PM

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Message

From: Brian Wynne Ex. 6
Sent: 10/14/2018 1:32:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: One year ago we lost Drew

Sent from my iPhone

Message

From: Jason Albritton [jason.albritton@TNC.ORG]
Sent: 10/24/2018 12:15:06 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE:
Attachments: Natural Infrastructure 06 14 17.pdf; Making the Case for Natural Infrastructure White Paper - TNC - April 2017.pdf

Ryan,

Thanks for helping to get the meeting set up.

There are two topics that she plans to cover:

1. Opportunities to use natural infrastructure to meet clean water / storm water needs
2. Renewable energy development on brownfields and abandoned mine lands

Attached are background documents on natural infrastructure that we have shared broadly within the Administration.

Please let me know if you have any questions or need anything else.

Thanks,

Jason

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 23, 2018 4:23 PM
To: Jason Albritton <jason.albritton@TNC.ORG>
Subject:

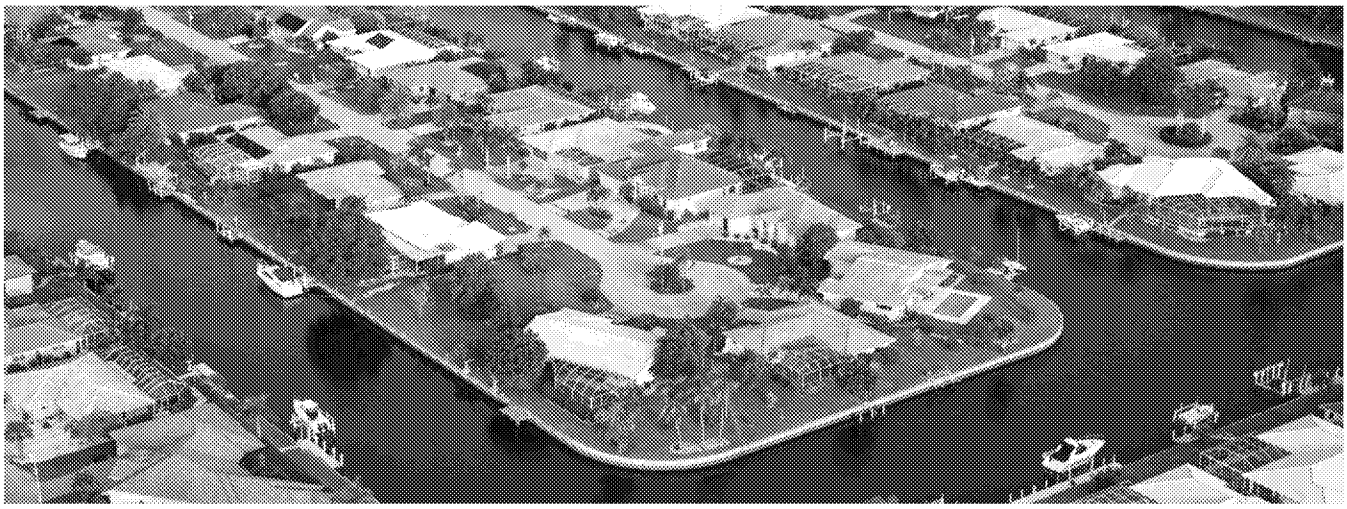
Hey Jason, glad Lynn is coming in. Do you have a list of issues or backgrounder I can provide to Wheeler on what Lynn may want to talk about?

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

The Nature Conservancy

Investing in Nature

Improving the US Economy and Protecting Our Communities by Investing in Natural Infrastructure



Introduction

There are tremendous needs for improving and maintaining all kinds of infrastructure throughout the U.S. Review of the recent American Society of Civil Engineers 2017 scorecard giving the state of our nation's infrastructure a D+ summarizes this need. The review included, to name a few, the state of our roads, bridges, rails, energy, public parks, dams and levees. (http://www.infrastructurereportcard.org/)

To meet the needs for upgrading our nation's infrastructure requires investing significant resources and finding ways to cost-effectively and expeditiously accomplish needed infrastructure investments while sustaining community, environmental, safety and other widely held values.

One significant tool in meeting the infrastructure demands in a cost-effective manner is to consider investments in natural infrastructure – investments in restoration, conservation of nature, and nature-based (bioengineered) systems as a means to achieve infrastructure needs. Investments in natural infrastructure often occur combined with investments in more traditional "grey" or "hard" infrastructure. Investments in natural infrastructure help preserve or reintroduce the basic functions of nature that support human well-being; deliver clean water and clean air; and sustain lands that provide food, recreation opportunities, and a multitude of other benefits. Many of these solutions represent infrastructure innovations as important for their

Contact: Lynn Scarlett | Managing Director, Public Policy | lscarlett@tnc.org
The Nature Conservancy | April 2015

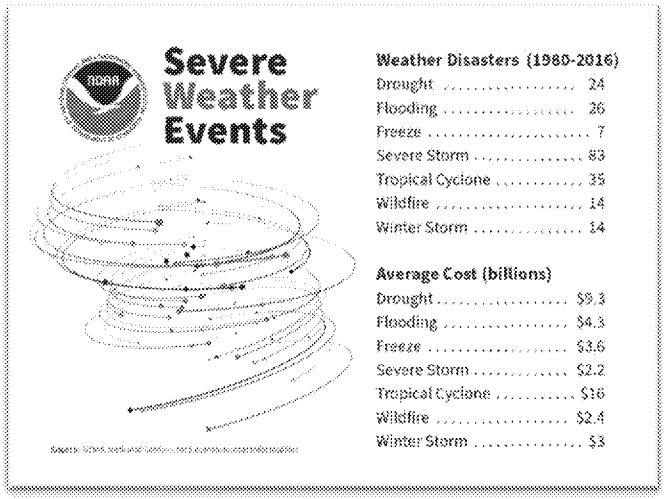
cost-effective performance for certain purposes as are innovations in high-technology solutions.

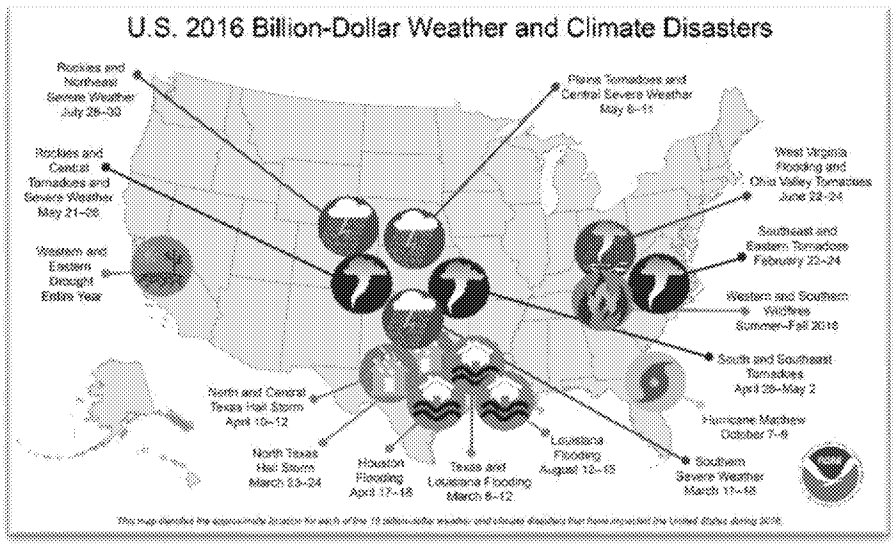
This paper summarizes the varied types of natural infrastructure that can help meet our nation's infrastructure needs in a cost-effective manner. The paper focuses on coasts, freshwater and lands, and urban geographies and, for each, describes a range of natural infrastructure project types. The paper describes, for each natural infrastructure project type, their challenges, solutions and effectiveness. The paper contains cited facts and research, including results of some Nature Conservancy science.

Overall Challenge Facing Infrastructure

CHALLENGES OF EXTREME WEATHER ARE INCREASING AND COSTING MORE

From 1980 - 2016, damages associated with extreme weather have cost the US $1.1 trillion. (https://coast.noaa.gov/states/fast-facts/weather-disasters.html) In 2016, there were 15 weather disasters in the U.S. with losses each exceeding $1 billion. Overall, these events resulted in the deaths of 138 people and had significant adverse economic effects on the areas impacted. The 1980–2016 annual average is 5.5 events (CPI-adjusted); the annual average for the most recent 5 years (2012–2016) is 10.6 events (CPI-adjusted). The table below clearly shows the increased trend in weather-related disasters since 1980. (https://www.ncdc.noaa.gov/billions/time-series)





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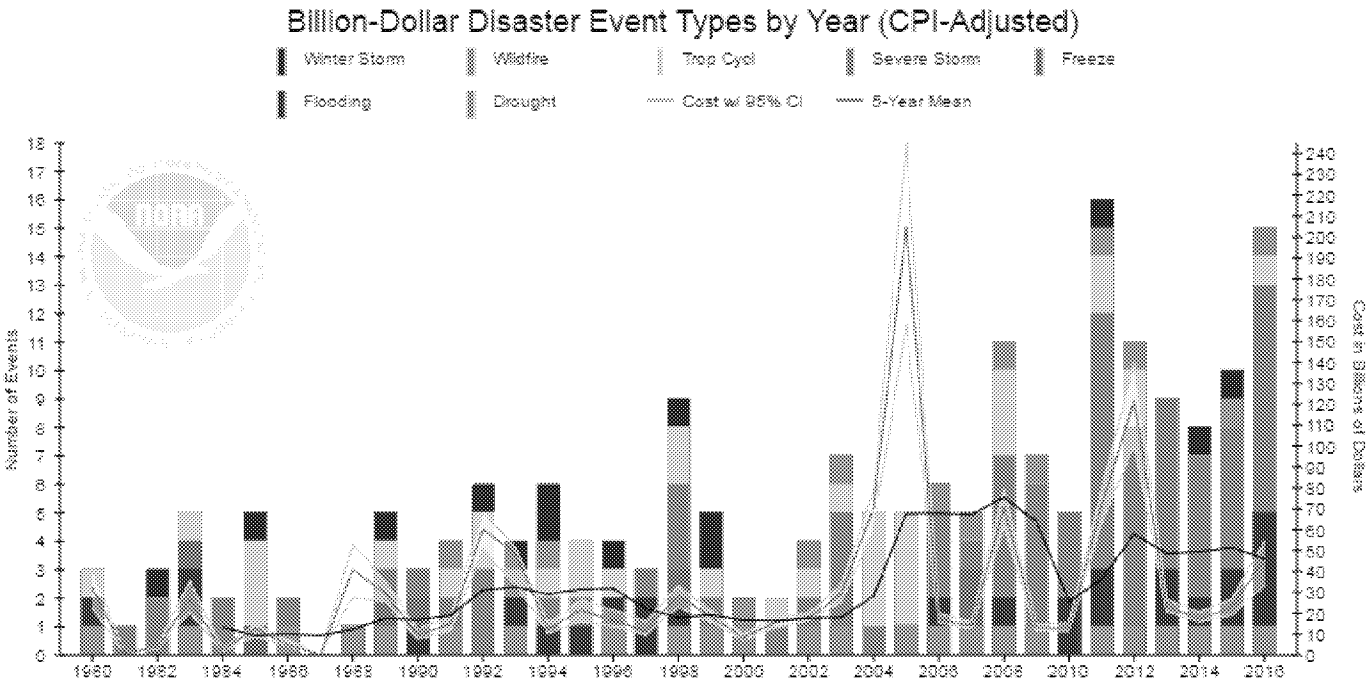

Over the last 50 years, Americans have seen a 20% increase in the heaviest downpours. In addition, newly published research demonstrates that the proportion of category 4-5 hurricanes has doubled from 20% to 40% in 35 years (Holland and Bruyere, 2012). Coastal storm surge and storm impacts will intensify as sea levels continue to rise the predicted 0.6 and 2 feet globally in the next century (International Panel on Climate Change, 2007). (Note that we summarize here observed and projected effects that are important to understand in order to advance prudent management and infrastructure investments; this information is independent of any particular perspective on causes of a changing climate).

PERFORMANCE CHALLENGES OF TRADITIONAL INFRASTRUCTURE

Infrastructure failures at the time of Hurricane Katrina captured headlines—but those failures are not unique. In 2006, California experienced levee failures during intense rainfall events, endangering communities. Traditional stormwater systems are inadequate to manage expected stormwater flows in many cities, and extensive, impermeable surfaces in many cities contributes to the challenges of managing stormwater runoff.

What is Natural Infrastructure?

Natural infrastructure incorporates both the natural environment and engineered systems that mimic natural processes or work in concert with natural systems to provide flood, fire and drought risk reduction, clean water, and clean air benefits. Natural infrastructure delivers economic, societal and environmental benefits.

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At its essence, natural infrastructure can protect, restore, or mimic the role that nature plays—the ecological processes—including, but not limited to, water quality and quantity processes. Natural infrastructure uses vegetation, soil health, land protection, land management, and other elements and practices to protect, maintain, and restore the natural processes required to manage water and other natural processes, create healthier environments, and protect human communities.

Natural infrastructure solutions can be applied on different scales: at the city, county or regional scale. By using nature, damages and impacts can be minimized and communities can recover more quickly from disasters and impacts.

To illustrate examples of varied types of natural infrastructure projects, we include a compilation of natural infrastructure projects from throughout the U.S. that The Nature Conservancy has been involved in. (See Appendix A.) The Naturally Resilient Communities web site (www.NRCsolutions.org) also provides an overview of natural infrastructure and a host of case studies throughout the U.S. that illustrate varied types of projects.

Natural infrastructure can:

- Keep people and structures out of harm's way
- Reduce wave heights and storm surge
- Store and convey water
- Improve water quality (and reduce costs of water treatment)
- Reduce drought impacts
- Reduce threats of catastrophic fires
- Reduce summer heat and improve air quality
- Reduce erosion and sedimentation
- Provide greenspaces, greenways and recreational opportunities
- Provide habitat for fish and wildlife

Why Invest in Natural Infrastructure vs. Purely "Grey" Infrastructure?

The traditional approach to flood and water quality protection in river-floodplain systems has been to rely on dams and levees to contain flood waters; build treatment plants and lay miles of pipes to treat and transport water and wastewater; and, in coastal areas, build sea walls, bulkheads and other "grey" infrastructure. While built infrastructure plays an important role in helping to secure and provide essential services to communities, it requires substantial investments for both initial construction and ongoing maintenance. Moreover, extensive reliance on built infrastructure in the United States during the 19th, 20th and early 21st centuries has encouraged land development in areas particularly susceptible to flooding and storm damage, and catastrophic flooding when infrastructure fails. And fail it has. Just this

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past year during Hurricane Matthew, catastrophic flooding occurred, exacerbated by levee and dam failures. Lives were lost and billions of dollars in damage occurred. Despite many billions of dollars in taxpayer investment in flood protection, national flood damages continue to increase, doubling from 1980s to 1995-2004 to an average of more than $6.5 billion annually. (http://www.mvk.usace.army.mil/Portals/58/docs/PP/ValueToTheNation/VTNFloodRiskMgmt.pdf)

If left unaddressed, as the nation's water infrastructure and flood protection infrastructure continue to age, we expect that these economic losses will continue to increase—including the taxpayer's large obligation under the National Flood Insurance Program—along with the risk faced by tens of millions of Americans who live and work behind levees and tens of millions more living along the coast.

Simply investing to renew the nation's traditional built flood control and water infrastructure solutions poses a daunting challenge. The American Society for Civil Engineers reports there are 30,000 documented miles of levees in the U.S. protecting communities, critical infrastructure, and valuable property. The levees in the U.S. Army Corps of Engineers database protect an estimated $1.3 trillion in property. Yet development continues to encroach in floodplains along rivers and coastal areas, exacerbating flood risk and property at risk. An estimated $80 billion is needed in the next ten years to maintain and improve the nation's system of levees. (http://www.infrastructurereportcard.org/) The challenge also exists for coastal infrastructure. In Massachusetts alone, there are about 140 miles of publicly owned sea walls or other structures along the coast designed to protect billions of dollars of property. Most were designed to last a half century but are older than that now. The estimated price tag to repair and fortify all of them against rising seas is more than a billion dollars.

Natural infrastructure or natural infrastructure combined with grey infrastructure is often the most cost-effective and best-performing option for reducing flood risk while delivering a host of other benefits such as improved water quality, enhanced habitat for fish and animals, improved aesthetics, and overall contribution to a community's quality of life.

A 2015 study conducted by The Nature Conservancy and CH2M Hill studied the costs and benefits of investing in varied flood risk-reduction projects in Howard Beach, Queens, NY. The study analyzed the cost-benefit of two natural infrastructure projects, two hybrid natural and grey infrastructure projects, and one grey infrastructure project as alternatives. The study found that a hybrid project provides the greatest community flood protection, while also maximizing environmental benefits. (https://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/climate-energy/natural-infrastructure-study-at-howard-beach.xml?redirect=https-301)

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Case for Natural Infrastructure at Coasts, in Watersheds, and in Urban Areas

COASTS

NATURAL INFRASTRUCTURE TYPES

- Wetlands Restoration. Restoring and protecting coastal wetlands reduce impacts of storm surge by attenuating wave energy, helping to absorb flood waters and slowing erosion.
- Living Shorelines. Using plants or other natural elements, sometimes in combination with harder shoreline structures, can reduce shoreline erosion and, in some cases, reduce flood risk.
- Oyster Reef Restoration and Development. By rebuilding and/or restoring oyster reef habitat at intentionally sited locations, reefs attenuate wave energy, reducing shoreline erosion, and can reduce overall flood risk.

CHALLENGES

Coastal flooding causes significant economic damage in the U.S. to public infrastructure, private properties and local communities. Hurricane Sandy impacted coastal counties in 12 states on the Atlantic seaboard from North Carolina to Maine, causing $50 billion in property damages, becoming the second costliest hurricane in U.S. history. States like Florida and Louisiana on the U.S. Gulf Coast are particularly vulnerable to flood damage and even loss of land due to hurricanes, land subsidence and rising sea levels. The damages from Hurricane Katrina in 2005 were more than $131.1 billion (adjusted to 2015 U.S. dollars). As the likelihood and costs of flood damage from hurricanes and nuisance flooding continue to increase, there is growing pressure on local communities to identify cost-effective strategies for reducing flood risks. Protecting the thousands of miles of U.S. shorelines with built infrastructure is an expensive proposition. Evidence and research show that natural infrastructure – i.e., solutions that use the features of natural coastal habitats to protect the coastline – can mitigate hazards and help to reduce risks. These habitats can be an important part of the portfolio of solutions to reduce coastal risks.

In the last 10 years, insurers paid more than $200 billion for coastal damages from storms globally. (https://coast.noaa.gov/states/fast-facts/wetland-benefits.html)

At the same time that storm impacts are increasing, wetlands, a proven buffer to flood and storm impacts, have been lost at alarming rates across the northeastern United States. New York alone has lost 50% of its wetlands on Long Island Sound during the past 130 years. (https://coast.noaa.gov/states/fast-facts/wetland-benefits.html)

The CoreLogic 2016 storm surge analysis reveals that a total of more than 6.8 million homes located along both the Gulf and Atlantic coasts of the U.S. are at risk of storm

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surge damage. The estimated total reconstruction cost value (RCV) of these structures is just over $1.5 trillion. Reconstruction cost values are based on construction materials, equipment and labor costs, and do not include the value of the land on which the home is located. Additionally, RCV is based on total, or 100-percent, destruction of the residential structure. Depending on the amount and force of surge water from a given storm, the degree of flooding that occurs could cause less than 100-percent property loss, which would result in a lower realized rebuilding cost and accompanying RCV. (http://www.corelogic.com/about-us/researchtrends/storm-surge-report.aspx#.WNvxfW8rLIU)

According to a 2013 study by Arkema, et al., 16% of the U.S. coastline comprises 'high hazard' areas, harboring 1.3 million people, 250,000 elderly, 30,000 families below the poverty line and $300 billion in residential property value. (https://conservationgateway.org/ConservationPractices/Marine/crr/library/Documents/Arkema%20et%20al%202013_Nature%20Climate%20Change.pdf)

SOLUTIONS

Research shows that coastal habitats can protect people and property from flood damages and in a cost-effective manner. These benefits are increasingly being recognized by private industry, including insurers, and public institutions.

Coastal wetlands—our natural defenses—help protect coastlines by acting as a permeable barrier that slows waves and surge through friction and reduces flooding. (https://coast.noaa.gov/states/fast-facts/wetland-benefits.html)

"The number of people, poor families, elderly and total value of residential property that are most exposed to hazards can be reduced by half if existing coastal habitats remain fully intact. Coastal habitats defend the greatest number of people and total property value in Florida, New York and California." (https://conservationgateway.org/ConservationPractices/Marine/crr/library/Documents/Arkema%20et%20al%202013_Nature%20Climate%20Change.pdf)

A growing body of knowledge and experience demonstrate the effectiveness and cost-effectiveness of coastal natural infrastructure. In the U.S., coastal wetlands act as 'horizontal levees' for a value of $23.2 billion per year in protection from storms (Costanza et al., 2008). Barbier et al. (2013) show that the coastal marshes and vegetation have demonstrable effects on reducing storm surge levels, which provides significant value in protecting property in southeast Louisiana. They measured that a mere 1% increase in wetland continuity over a distance of 6 km would lower residential property flood damages by $592,000 to $792,100, and a marginal increase in bottom friction over 6 km would reduce flood damages by $141,000 to $258,000.

In a 2016 study, The Nature Conservancy, in partnership with Risk Management Solutions, a global leading risk modeler for the insurance industry, Guy Carpenter &

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Company, and others showed that marsh wetlands saved over $650 million in property damages during Hurricane Sandy and reduced annual property losses by nearly 20% in Ocean County, New Jersey (Narayan et al., 2016b) (https://www.researchgate.net/publication/309481343_Coastal_Wetlands_and_Flood_Damage_Reduction_Using_Risk_Industry-based_Models_to_Assess_Natural_Defenses_in_the_Northeastern_USA)

In another study, The Nature Conservancy, in collaboration with SwissRe, a global reinsurer, shows that flood risk reduction strategies in the Gulf of Mexico that used nature-based defenses such as oyster reefs, wetland and island barrier restoration would be cost-effective for reducing coastal risk (Reguero et al., 2014). See Figure 12 below that summarizes the findings.

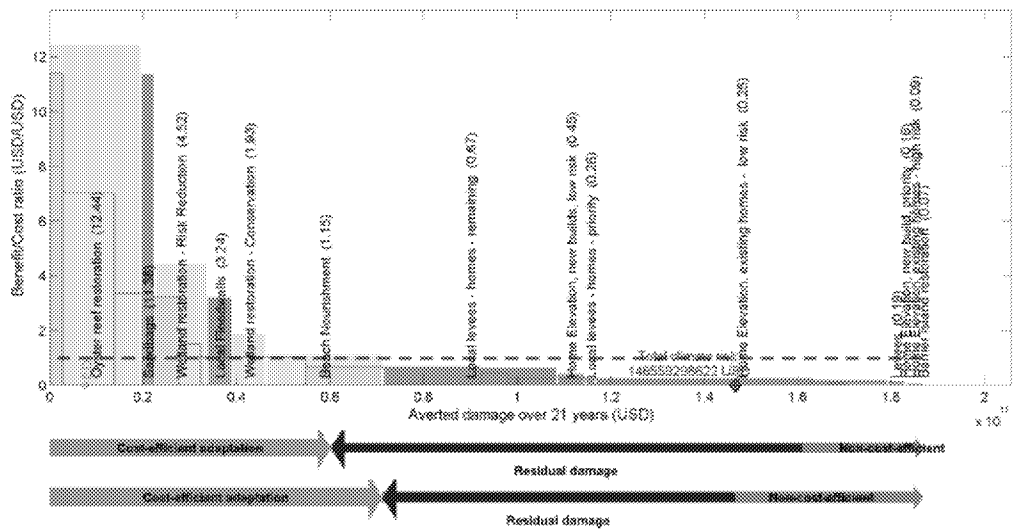

Figure 12. Benefit-cost ratio of adaptation measures across the Gulf Coast. Comparative cost effectiveness of the different measures and the likely amount of damages averted in billions of dollars.

Coastal habitat restoration produces jobs at higher rates than sectors like road infrastructure or oil and gas (NOAA, 2012a). More than 200 jobs have been supported by NOAA-funded oyster reef restoration projects that The Nature Conservancy has implemented across the Gulf of Mexico. A review of two projects in Alabama shows that every mile of oyster reef restored at a cost $ 1.5 Million will provide revenues of $2.3 Million and create 25 jobs. A large part of these benefits will support the local community by supporting jobs in a variety of industries, including steel manufacturers and local fishermen and mesh shell bag producers. Constructing such self-sustaining oyster reefs in Alabama could save property owners between $95 million and $150 million on rip-raps or bulkheads (Kroeger, 2012; NOAA, 2012b).

Coastal habitats like wetlands also help reduce coastal pollution. Almost half of the U.S.'s coastal waters are closed to fishing or swimming due to excess pollution (National Centers for Coastal Ocean Science, 2016). On the Atlantic coastline, Living Shoreline projects that restore salt marshes as natural infrastructure have successfully

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prevented coastal erosion during storms and hurricanes, while creating valuable habitat during the rest of the year. In addition, the various co-benefits these habitats provide, including enhancing water quality, biodiversity and productivity, make them attractive options to consider (Bilkovic et al., 2016).

Oyster reef development and restoration also yield significant economic benefits. A 2012 study by a TNC economist summarized that an investment of $150 million in oyster reef restoration will:

- Build 100 miles of oyster reefs
- Create 380 jobs per year for 10 years, or rather, 3,800 jobs during the decade-long construction phase
- Boost regional household income by $9.7 million a year during the 10-year construction period
- Increase revenues and sales of crab, fish and oyster harvests by $7.87 million yearly
- Save property owners up to $150 million on the construction of bulkheads
- Enhance yearly saltwater angler spending by $4.9 million — and that's just in Alabama
- Increase annual sales by $7.3 million in the commercial seafood supply chain (https://www.nature.org/ourinitiatives/regions/northamerica/areas/gulfofmexico/economics-of-oyster-reef-restoration-in-the-gulf-of-mexico.pdf?redirect=https-301)

PERFORMANCE

Nature-based defenses protect the coastal system by reducing wave energy, trapping sediments, and attenuating storm surge (Ferrario et al., 2014; Gedan et al., 2011; Möller et al., 2014; Narayan et al., 2016; Pinsky et al., 2013; Shepard et al., 2011; Wamsley et al., 2010). These ecosystems may also adapt to, and grow with, their changing environment; thus, nature-based measures may be dynamic approaches to respond to challenges such as sea level rise, for example (Rodriguez et al., 2014).

A 2015 study of a wave tank experiment shows significant attenuation of wave energy (up to 67%) by oyster reefs combined with saltmarsh for boat wake waves. (https://www.researchgate.net/profile/Linda_Walters/publication/269096201_Wave_attenuation_experiments_over_living_shorelines_over_time_a_wave_tank_study_to_assess_recreational_boating_pressures/links/547f6a340cf250f1edbdc5d3.pdf)

In another 2005 study, shoreline retreat was significantly lower (by up to 33%) for experimental field sites with oyster reefs, compared to sites without oyster reefs. (http://onlinelibrary.wiley.com/doi/10.1111/j.1526-100X.2005.00062.x/abstract)

A study of barrier islands in Louisiana shows that healthy islands could reduce wave heights by 30% or more and delay the propagation of surges by up to two hours during hurricanes (Grzegorzewski et al., 2011). Similarly, the Louisiana Coastal Master Plan

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finds that nature-based defenses can contribute to regional risk reduction (Cobell et al., 2013; CPRA, 2017, 2012; Fischbach et al., 2012; Peyronnin et al., 2013).

A full listing of references for coast-related natural infrastructure is contained in Appendix B.

FRESHWATER AND LANDS

NATURAL INFRASTRUCTURE TYPES

- Floodplain restoration through levee setback and habitat restoration reduces flood impacts by absorbing floodwaters as compared to funneling river flow downstream and improves water quality through absorption and filtration of water
- Watershed headwater protection and restoration reduces flood impacts by absorbing floodwaters as compared to funneling river flow downstream and improves water quality through absorption and filtration of water
- Culvert upsizing allows more natural flow of a river and reduces risk of culvert failures during times of extreme flows
- Strategic obsolete dam removal allows more natural flow of a river and reduces risk of dam failures during times of extreme flows
- Forest management protects property from catastrophic fire, enhances water quality
- Land restoration and conservation enhances water quality, reduces nutrient pollution, contributes to the recreation economy

WATERSHED HEADWATER/FLOODPLAIN RESTORATION AND PROTECTION

Conservation and restoration of floodplains and watersheds is essential to ensure high-quality, clean water supplies. The nation depends on watersheds to provide access to freshwater for drinking, recreation, industry, and power generation.

CHALLENGES

Water Quality Challenges

Water supplies, and the people and economies who depend on them, face numerous pressures, including contamination with polluted runoff and sediments and high risks resulting from wildfires.

When conventional infrastructure measures are combined with sustainable management of natural infrastructure (for example, watersheds), they can reduce utility operation costs, improve water system performance, increase predictability of water supply, and generate ecosystem services for the enjoyment of communities in the watershed (Forster and Murray 2001; Freeman et al. 2008).

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Excessive nutrients, such as nitrogen and phosphorus, in rivers and lakes can disrupt drinking water systems by contributing to algal blooms and low levels of oxygen. In addition to problems like hypoxia in the Gulf of Mexico, excess nutrients have driven toxic algae blooms across the country, such as one that shut down the City of Toledo's water supply in 2014. This harmful algal bloom cost the city $65 million in lost benefits – with $1.3 billion in losses estimated over the next 30 years. These blooms not only demonstrate severely degraded ecosystems; they also present significant threats to public health and the economy. These types of water quality problems have been calculated to cost $2.2 billion annually.

Drinking water systems are also aging - the total capital wastewater and stormwater treatment and collection needs for the nation are $271 billion as of January 1, 2012. (https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data)

USDA economists estimate that removing nitrates alone from drinking water costs more than $4.8 billion a year. Costs to treat 1 pound of nitration average $7.27, while stream and ditch buffers can remove 1 pound of nitration for $1.63. (http://www.epa.illinois.gov/Assets/iepa/water-quality/watershed-management/nlrs/nlrs-final-revised-083115.pdf)

A study by researchers at the University of Texas at Austin concluded that with the expansion of agriculture in the United States, water utilities might require up to a 2,100 percent increase in energy use for water treatment for nitrate pollution in agricultural areas, which would become a significant financial burden for many communities. (https://www.amwa.net/galleries/default-file/troubled_waters.pdf)

Wildfire Challenges

For the wildfire-prone ecosystems in the West, urgent, widespread action is needed since at least 80 million acres of federal forestland need conservation management action, and the health and welfare of 50% of America's freshwater supply hangs in the balance.

Longer fire seasons, increased development in the wildland-urban interface, and millions of acres of forests with fuel loads exceeding the historic range of variability are among the many factors contributing to increased costs of wildfire response and increased impacts to communities and their water supplies in the United States. Wildland fire can result in high levels of erosion that, in turn, can significantly increase sedimentation of water storage facilities, such as what occurred to the Denver water supplies after the 2004 Hayfork Fire, costing millions of dollars to restore the storage systems. This and other experiences have resulted in examination of the cost-effectiveness of investing in watershed restoration to reduce risks of catastrophic wildland fire as a way to protect urban water supplies.

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Inland Flood Challenges

According to the US Army Corps of Engineers, nearly 94 million of coastal and inland acres in the United States are at risk for flooding. According to a 2013 report by AECOM for the Federal Emergency Management Agency (FEMA), river floodplain areas with a 1% annual chance of flooding (otherwise known as the 100-year floodplain) are projected to grow by about 45%, by 2100, with the Northwest and the Great Lakes region increasing the most. Average flood insurance premiums are projected to increase as much as 40% in today's U.S. dollars by the year 2100, per policy, needed to offset the projected payout on losses. (https://www.scribd.com/document/168068304/Climate-Change-Report-AECOM-2013-06-11)

SOLUTIONS

Nature has an important role to play, along with traditional infrastructure solutions, in achieving reliable, safe supplies of drinking water at a lower cost than could be provided by traditional grey infrastructure alone.

These natural infrastructure solutions do more than filter and protect water, although that is a central infrastructure-related purpose of such solutions. Healthy natural and working lands in urban source watersheds:

- Are vital for maintaining the carbon sequestration of these systems and avoiding greenhouse gas emissions
- Can reduce the impacts of floods, fire and land erosion that disproportionally affect the poorest communities
- Can build healthier communities by protecting fisheries and providing habitat to pollinators that help us grow nutritious food
- Can protect or restore the habitat for thousands of species, many of which are endangered or threatened
- Can maintain or improve the quality of groundwater resources by targeting aquifer recharge zones or other sensitive areas of the landscape
- Provide important sources of employment

Water Quality Solutions

Investing in natural solutions to secure clean water makes good business sense. Public national forests and grasslands capture and filter drinking water for 180 million people. Source water protection funds engage various interests in protecting clean water and can leverage various sources of funding for greater impact. For example, the Rio Grande Water Fund has leveraged $4 of public funding for every $1 of private investment (including support from corporations and foundations). The Minnesota Headwaters Fund has a goal to raise $10M in private dollars. This Fund will be used to stretch public dollars to make strategic investments resulting in clean water for nature, people and businesses. To date, $1M in public funding has been secured for this fund.

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There are many examples of cost effectiveness of a natural infrastructure approach as compared to investment in traditional water treatment grey infrastructure options. A well-known example is the protection of New York City's effort to protect its water supply. In the late 1990s, New York City initiated a plan to protect its source water and avoid the cost of a filtration plant by investing in its 2,000 square mile watershed. A filtration plant would have cost the city $8-$10 billion in current dollars—roughly $6 billion to build and $250 million annually to maintain. In contrast, the cost of securing natural infrastructure in the watershed was estimated at $1.5 billion. The watershed program has staved off the need to build a filtration plant and provided an annual $100 million injection to the rural economy in the upper reaches of the watershed by providing supplemental income to farmers and forestland owners, paying local contractors to install septic systems and set up stormwater protection measures, and by promoting ecotourism (Kenny 2006).
https://www.wri.org/sites/default/files/wri13_report_4c_naturalinfrastructure_v2.pdf

Another example is from the City of Medford, OR. Its wastewater facility discharges into the Rogue River but exceeds maximum temperature load requirements as allowed by its Total Maximum Daily Load (TMDL). In order to meet its temperature TMDL requirements, Medford evaluated three alternatives: lagoon storage for discharge later in the year, mechanical chillers, and riparian restoration and shading. An economic analysis showed that riparian restoration was three times more cost-effective than mechanical chillers for reducing thermal loads into the river and would provide additional benefits such as wildlife habitat and water filtration.
https://www.wri.org/sites/default/files/wri13_report_4c_naturalinfrastructure_v2.pdf

Restoration of coastal and riverine areas generates significant economic benefits. For every $1 million invested, between 10.4 and 39.7 jobs are generated, according to a study by the University of North Carolina. This compares favorably with other infrastructure jobs in transportation, construction and utilities.

We also know that healthy water and land resources encourage recreation, which significantly contributes to the economy. America's parks and public lands also support industries such as lodging, restaurants and bars, grocery and convenience stores, and gas stations. (http://www.infrastructurereportcard.org/cat-item/public-parks/) Hunting, fishing, camping, hiking, paddling and other outdoor recreation activities contribute a total of $730 billion annually to the economy, supporting 6.5 million jobs (1 of every 20 jobs in the U.S.) and stimulating 8% of all consumer spending, according to the Outdoor Industry Foundation. This sector generates $289 billion annually in retail sales and services across the U.S., as well as $88 billion in annual state and national tax revenue. When combined with the larger outdoor

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recreation, conservation and historic preservation economy, this contribution rises to $1.06 trillion annually, and supports 9.4 million American jobs.

Three Rivers Park is Pittsburgh's 13-mile interconnected downtown riverfront park system. Overall, the approximately $130 million invested in Three Rivers Park over the past 15 years has helped to catalyze nearly $2.6 billion in riverfront development activity, and nearly $4.1 billion in total riverfront and adjacent development. Just analyzing the $2.6 billion riverfront yield, the ratio between park investment and riverfront development is 20:1. Studying actual historical changes in property value since 2001, the data show a 60% property value increase within the vicinity of riverfront investment projects compared with a 32% property value increase citywide outside the riverfront zone of influence. As part of the overall project, plantings were created to capture stormwater. It was estimated for an inch of rainfall captured in the open space created, approximately 49 million gallons of water could be captured annually, and this would equate to $16 million in annual water treatment savings.

Wildfire Solutions

It is more cost-effective to invest in prevention than to pay for expenses associated with reacting to damaging fires. For example, thinning one acre of dense forest in the critical Rio Grande and San Juan-Chama headwaters area costs $700 on average, whereas the economic impact of one acre affected by damaging wildfire can be up to $2,150 per acre. Even if just one large fire burns, the upfront investment in forest health saves money: forest thinning to boost fire resiliency is estimated to cost $73 million to $174 million, with damage estimates between $104 million and $1.3 billion.

This approach makes economic sense over the long-term. A recent study estimated the cost of damages from wildfires from 2009 to 2012 in New Mexico was $1.5 billion. In contrast, the Rio Grande Water Fund estimates a total cost of $420 million over 20 years to accelerate the pace and scale of forest treatments and restoration. Preserving and restoring these forests will help ensure the sustainability of New Mexico's water supply and increase social and economic benefits for local communities. A University of Oregon study from 2010 found that each $1 million invested in forest or watershed restoration generates between 14.7 and 23.8 jobs, and between $2.1 and $2.6 million dollars for the local economy.[1] The larger economic benefits of restoration – including work that protects our waters – is valued at $25 billion and generates 220,000 jobs (http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0128339)

PERFORMANCE

Natural infrastructure can offset some of these costs – by ensuring water is cleaner before it even reaches treatment plants. A study of 27 water suppliers conducted by the Trust for Public Land and the American Water Works Association, in 2002 found that the more forest cover in a watershed, the lower the treatment costs. For every

[1] http://voices.nationalgeographic.com/2012/09/26/watershed-restoration-the-new-job-growth-sector/

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10% increase in forest cover in the source area, treatment and chemical costs decreased approximately 20%, up to about 60% forest cover. Postel and Thompson (2005) showed that seven cities in the United States avoided between $725,000 and $300 million in annual water treatment costs and between $25 million and $6 billion in capital costs by investing in the protection and sustainable management of watersheds that deliver urban water supplies. Natural infrastructure may have cost saving potential for utilities by preventing sediment buildup in reservoirs, thereby reducing capital, maintenance, and variable costs for water treatment (Freeman et al. 2008).

A tidal marsh restoration project on the Skagit River Delta in Washington carried out by The Nature Conservancy (TNC), Skagit County, Western Washington Agricultural Association (WWAA), local dike and drainage districts, and neighboring farmers, restored about 60 acres of freshwater tidal marsh, improved fish passage to 15 miles of salmon spawning and rearing stream habitat, and improved flood storage capacity to reduce flood damage in the lowland reaches of the 23-square mile watershed. An economic study was conducted to quantify the benefits of the work. Benefits included reduced O&M, abated cost of new infrastructure, reduced cost of flood damage, reduced habitat restoration obligations, reduced dredging costs, increased crop value, and reduced crop production costs). Total NPV benefits were calculated at $8.5M - $16M over 20 years, and $9.1M to $20.5M over 50 years.

A large-scale river restoration project was carried out on the Napa River, which runs through Napa City, CA. The project included:

- Improvements to 6 miles of the Napa River and 1 mile of Napa Creek
- Removal of 53 mobile homes, 16 other residences and 28 commercial buildings
- Creation of 400+ acres of emergent marsh and 150 acres of seasonal wetlands
- Replacement of 9 bridges

Prior to the restoration work, floods resulted in $26 million in property damage annually throughout Napa County. The project significantly reduces, if not eliminates, flood damage within the city of Napa and downstream communities. The project resulted in the protection for 3,000 properties from the 1% risk of flood (that is, the 100-year flood event), translating into damage avoided amounting to $1 billion.

During a January storm in 2009, the Puyallup River in Washington was raging and crested at 16,900 cubic feet per second (cfs). Some 26,000 people were evacuated—one of the largest evacuations in the State's history. This year the Puyallup River again crested above 16,000 cfs on November 25th, 2014; yet only a handful of residents evacuated. By reconnecting side channels, moving 1.5 miles of the levee back to more than double the width of the river, and installing log jams that add river complexity and shoreline protection, the Calistoga Reach Floodplains by Design project has helped dramatically reduce flood risk for the City of Orting and surrounding community. This project also improves habitat for endangered salmon in the Puyallup River.

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CULVERTS

CHALLENGES

During storm events, road-stream crossings may fail catastrophically when the hydraulic capacity of a culvert to convey the floodwaters is exceeded and/or sediment and debris plug the culvert. While all stream crossings are vulnerable to flood events, culvert crossings are particularly so, given their size and location.

During Tropical Storm Irene in 2011, over 1000 culverts failed in Vermont alone, stranding 13 communities due to road and bridge failures and requiring months of repairs.

Most road-stream crossings in Maine were designed to meet standards half a century out of date. Municipalities are projected to require $41-85 million to replace the highest-priority crossings and will need roughly $14-28 million more to build the upgraded structures to handle the higher flood levels now expected (R. Bouvier Consulting for TNC, 2016).

SOLUTIONS

Adequately sized and well-placed culverts and enlarged bridge and roadway underpasses help provide benefits including:

- Enhancing safety and uninterrupted transportation by ensuring that high river flows do not result in culvert failure and subsequent road closures.
- Reducing the costs of unplanned repairs or even replacements due to flooding from extreme storms, such as Tropical Storm Irene that overwhelm undersized crossings.
- Reducing costly flood-related damage to homes, businesses and communities.
- Securing economic benefits for local communities, such as fishing and tourism, associated with healthy lands and waters.
- Protecting and restoring ecosystem function by providing connectivity of rivers, wetlands and terrestrial habitats, enhancing the resiliency of riverine systems.

Nationally, a rough estimate is that 67% of culverts are not designed to allow for a 1% flood (100-yr. flood) and need upsizing. Assuming a quarter of those need immediate replacement, the savings over the life of the new culverts would be $8 trillion.

Looking at multiple sources, an average savings of around $10,000 over the projected 100-year life of the culvert should be observed when installing culverts spanning a river width as compared to traditionally designed culverts. The savings increases with flood risk, and grows exponentially when emergency management is required due to road or bridge washout—none of the calculations account for the dramatic costs of catastrophic failure and emergency replacement.

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When aggregated to a federal level, culvert upgrades could represent significant savings to the DOT budget, with an estimated 5 million culverts currently in use across the country.

PERFORMANCE

Properly sized and designed culverts have weathered large storms when nearby crossings have failed. Examples of upsized culverts performing as designed are as follows:

- For example, during Tropical Storm Irene, over 1000 culverts failed in Vermont, stranding 13 communities and requiring months of repairs. Yet several culverts that had been recently upgraded in Vermont's Green Mountain National Forest weathered the storm's high flows with no damage.
- In Worthington, Massachusetts, a culvert on a section of Bronson Brook, a tributary of the Westfield River, catastrophically failed in an August 2003 storm. An upsized arch culvert, spanning the river width, was installed and has survived several major storms, including Tropical Storm Irene, without damage to the structure, road or adjacent stream banks (A. Singler, American Rivers, pers. comm).
- In Hancock, New York, three flood events between 1996 and 2005 caused damage to an undersized culvert on Big Hollow Creek. In those nine years, Delaware County spent over $70,000 to repair damages to the culvert as well as the road and adjacent ditches. In addition, the detour length associated with closure of the road for repairs was 18 miles. Late in 2005, with hazard mitigation funding assistance from FEMA, the county installed a three-sided concrete box culvert with a natural bottom, designed to convey a 100-year storm and provided at a cost of $143,000. The improved crossing has survived seven federally declared flood disasters, including Irene, without significant damage since its replacement in 2005 (W. Reynolds, Delaware County Department of Public Works, pers. comm.).

OBSOLETE DAMS—STRATEGIC REMOVAL

CHALLENGE

There are an estimated 2 million dams in the U.S. (William 1993), 87,000 of which are more than six feet tall. (http://nid.usace.army.mil/cm_apex/f?p=838:12) By 2020, more than one third are at least 80 years old, with the number of dams rated as high hazard to public safety rising commensurately. Some of these dams no longer perform essential functions, whether for flood protection, water storage, or energy generation. (http://www.infrastructurereportcard.org/cat-item/dams/)

SOLUTION

The strategic removal of the thousands of obsolete dams that no longer serve a public benefit, and in many cases, pose a community safety risk, would have a significant

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economic and environmental return on investment—through avoided risks/costs (loss of life, property, displacement, etc.) (Department of Homeland Security 2011), work-flow and job creation in the construction and engineering sector and restored river services. https://headwaterseconomics.org/wp-content/uploads/Report-Dam-Removal-Case-Studies.pdf)

Strategic obsolete dam removals can be one of the most cost-effective investments to improve local surface water quality, restore fisheries, regulate water availability through floods and dry periods, and spur river recreation-based economies. (South Carolina Department of Health and Environmental Control)

The Association of State Dam Safety Officials (ASDSO) estimates almost 200 dam failures over a decade, costing an estimated $55 million in damages, with almost 600 incidents of partial breaching. Consider, for example:

- In South Carolina alone, 51 dams breached during a 2015 1,000-year flood event and close to 100 dams were partially breached or compromised, exacerbating flood damages and putting thousands of people at risk. (South Carolina Department of Health and environmental control)
- In 2016, during a Hurricane Matthew another 25 dams breached in the state.
- In Massachusetts, the cost of evacuation in the City of Taunton, downstream of a failing Whittenton Dam, was $1.5 million. In an economic assessment of cost comparisons between alternatives for dam owners facing failing dams (including the Whittenton case study), on average, removal of the dams was 60% less expensive than repair and maintenance over a 30-year period. (Industrial Economics (IEc) 2014)

PERFORMANCE

A 2016 study detailed the eight cases of dam removals throughout the United States, the costs of those projects, and the economic benefits derived from the dam removal. https://headwaterseconomics.org/economic-development/local-studies/dam-removal-case-studies/

The following is a summary of a few of those cases:

- Mill River, MA, the Whittenton Pond Dam was removed at a cost of $447,000. An estimated $1.5 million was saved in avoided emergency response costs.
- Elwha River, WA, the Elwha and Glines Canyon Dams were removed at a cost of $324.7 million. As a result, $5.3 million annually in commercial fishing is generated, $33 million in personal income and 760 new jobs associated with the dam removal were generated, and $43.8 million and 446 new jobs from 500,000 more visitor days annually are estimated.

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URBAN GREEN INFRASTRUCTURE

Techniques such as biorention cell construction, planting trees and constructed wetlands, and floodplain reconnection enhance water quality, manage stormwater, and reduce urban flood risk, along with other benefits.

STORMWATER

CHALLENGE

According to the U.S. EPA, every year an estimated 10 trillion gallons (https://www.epa.gov/sites/production/files/2015-10/documents/csossortc2004_full.pdf) of rainwater and snowmelt run off roadways, streets, sidewalks and roofs into U.S. rivers, lakes, and beaches. This stormwater runoff impacts rivers, lakes and coastal waters vital to the economies of communities across the United States. Rainwater picks up a range of pollutants (oil and grease, heavy metals, pesticides, fertilizers, sediment, and pet waste) as it washes off paved landscapes into storm drains, which connect to stormwater pipes that discharge the water directly into waterways. Polluted stormwater runoff is a primary threat to water quality nationwide, which causes a range of economic and environmental consequences, including persistent flooding, beach closures, commercial fishing revenue losses, and contaminated drinking water. (https://www.nap.edu/catalog/21866/using-graywater-and-stormwater-to-enhance-local-water-supplies-an)

In more than 700 cities nationwide, some or all of the storm drains connect directly to the sewer pipes, mixing stormwater with sewage and industrial waste during rainstorms. Normally, this mixture of polluted rainwater and wastewater is safely treated at a wastewater plant; however, when rainfall or snowmelt is heavy enough, the combined volume exceeds the capacity of the sewer system, in which case this toxic wastewater mixture is dumped directly into a nearby waterbody through overflow pipes. Some 850 billion gallons of wastewater are dumped into lakes, rivers and coastal waters across the nation every year.

Many U.S. cities did not design their stormwater and wastewater systems to manage the volume of stormwater they are now facing. Over time, as urban populations grew and cities became more densely developed, cities outgrew their existing systems. Some of these systems were designed in the 1800s and 1900s when urban landscapes featured far less pavement, and rainfall patterns were different. Many systems have reached or exceeded their useful life, and often rely on antiquated technology. Updating these systems is often extremely costly or simply not technically feasible. It is not uncommon to find pipes spewing sewage into water adjacent to some of the most expensive real estate in the world, such as the west side of Manhattan or in the Georgetown neighborhood of Washington, D.C.

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- The results of the U.S. EPA Clean Watershed Needs Survey show there is a budget shortfall of $271B of funding required for cities to come into compliance with Clean Water Act standards to address stormwater and related problems. (https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data)
- The American Society for Civil Engineers gives our nation's wastewater infrastructure a D+ and estimates demand on treatment plants will grow more than 23% by 2032, with an estimated 56 million more system users. (http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/Wastewater-Final.pdf)
- Current spending of $111B will not be adequate to meet future needs, given population growth, maintenance of existing/aging systems, and the need for new systems. (https://www.usmayors.org/2017/03/24/mayors-cities-and-counties-push-for-flexibility-on-water-infrastructure-costs/)
- Debt retirement in 2012 was about 2.5 times more than what was spent to provide public water services to 80% of Americans. (https://www.usmayors.org/2017/03/24/mayors-cities-and-counties-push-for-flexibility-on-water-infrastructure-costs/) In other words, most communities are at debt capacity and can't finance new services or borrow capital for deferred maintenance.
- According to the U.S. Census Bureau, 80.7% of the U.S. population now lives in cities, (https://www.census.gov/prod/cen2010/cph-2-1.pdf), and growth is expected to continue. While this growth is a boon for local economies, as cities become denser, the increased concrete, pavement and other impervious surfaces results in increased runoff and flooding.
- While urban land only accounts for 3% of all U.S. land cover, urban stormwater is the primary source of pollution of 32% of all estuaries, 13% of all rivers, and 18% of all lakes (https://www3.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf)

Without a combination of smart national and local policies that ensure that stormwater impacts are considered during development, this problem will continue to get worse as the urban population grows, and the need for public investment will grow with it.

SOLUTION

Natural infrastructure in cities is most often called green infrastructure. Green infrastructure has a proven track record of being more cost effective, in many cases, than traditional grey infrastructure solutions in achieving surface water management goals. For instance, the American Society of Landscape Architects studied 479 green stormwater infrastructure projects, of which 44% were lower and 31% were equivalent costs of grey infrastructure alternatives. (https://www.asla.org/contentdetail.aspx?id=31301)

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In one example at Episcopal High School in Baton Rouge, the cost of bioswales and raingardens that were constructed in lieu of replacing stormwater pipes with larger sized pipes saved the school $390,000, a cost savings of 78% over the original project budget of $500,000.

Green Infrastructure projects, beyond level of service and environmental benefits, have compounding economic benefits. In their study of the green infrastructure alternative for the City of Lancaster PA, EPA demonstrated that the added value benefits amounted to nearly $5 million/year. Specific examples of added economic benefits of green infrastructure include:

- *Avoided operational cost of wastewater treatment plants*
- *Energy cost savings*
- *Improved air quality and reduced heat island effects in the urban core*
- *Reduced CO_2 emissions*
- *Job creation for construction and maintenance.* A study of New York, Portland and Philadelphia green infrastructure capital spending programs found that between 3.6 and 8 jobs are created for every $1 million dollars spent on green infrastructure. Total estimated job creation under Philadelphia's GI program is estimated at between 8,700 and 15,000 for a $2.5 billion capital improvement program. (https://colab.mit.edu/sites/default/files/gedi-green-infrastructure-economic-development.pdf)
- *Enhanced property values.* According to a study by the National Resources Defense Council, "well designed landscaping boosts average rental rates for office buildings by approximately 7%." (https://www.nrdc.org/sites/default/files/commercial-value-green-infrastructure-report.pdf)
- *Reduced flood insurance rates in flood prone areas* (FEMA's Community Rating System)

PERFORMANCE

The EPA has also recognized that green infrastructure can reduce the capital expenditures of stormwater programs while meeting regulatory requirements and service expectations. For example, an EPA analysis documented an avoided capital cost of $120 million by the City of Lancaster (PA) stemming from their decision to blend of grey infrastructure with a $94.5 million investment in green infrastructure. (https://www.epa.gov/sites/production/files/2015-10/documents/cnt-lancaster-report-508_1.pdf)

According to the International Stormwater BMP Database, bioretention basins have a median removal rate of about 74% of Total Suspended Solids. Given that most cities aren't adequately capturing and treating street runoff, this provides a significant improvement over the typical current situation of no treatment. (http://www.bmpdatabase.org/Docs/2014%20Water%20Quality%20Analysis%20Ad

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dendum/BMP%20Database%20Categorical_StatisticalSummaryReport_December2014.pdf)

Research in North America and Australia has demonstrated that green infrastructure practices can replicate predevelopment hydrology. (https://www3.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf) In a 2015 study, Spromberg et. al., found that adult coho salmon immersed in untreated urban stormwater runoff experienced 100% mortality within a few hours. Control fish immersed in clean well water experienced 0% mortality. Pre-treating the highway run-off with green stormwater infrastructure (soil bio-infiltration in this instance) completely prevented the acutely lethal impacts on coho spawners. These results were consistent across nine distinct rainfall intervals that spanned three consecutive autumn spawning runs. (http://onlinelibrary.wiley.com/doi/10.1111/1365-2664.12534/full)

WASTEWATER – SEPTIC SYSTEMS

CHALLENGE

Throughout the US, septic systems are widely used in rural and suburban areas to dispose of human wastewater. More than one in five households, or about 85 million people in the United States, relies on on-site septic or small community cluster systems to treat their wastewater. Malfunctioning septic systems are currently the second greatest threat to groundwater quality in the United States and can cost homeowners tens of thousands of dollars to replace if not properly maintained. Septic systems are not designed nor intended to remove nutrients that occur in human wastewater. Consequently, anywhere there are septic systems near fresh or marine water, the wastewater can travel to these waterbodies through groundwater, carrying its load of nutrients with it. Septic systems in these circumstances are becoming an increasingly large source of nutrient pollution and degraded water quality, resulting in toxic blue-green algae blooms, which can disrupt and poison municipal drinking water supplies and directly harm people and animals.

In coastal and estuarine systems, nutrient pollution from septic systems (examples include Indian River Lagoon, FL, Cape Cod, MA, Long Island, MA) can cause many types of harmful algal blooms that remove oxygen from the water, kill shellfish and finfish, and degrade and destroy seagrass meadows and salt marsh habitat, which are important natural infrastructure for bays and harbors.

These impacts to the nearshore environment can destroy the economic livelihoods of people that rely on productive coastal habitats – tourism, fishermen, marina owners and the chains of users and suppliers to these related industries. Damaged economies abound – and revenue losses can top $50 million a year or more in lost economic activities and associated clean-up costs. Additionally, the destruction of natural infrastructure such as salt marshes and seagrasses leaves coastal communities more

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vulnerable to storm damage, as these habitats are no longer the first line of defense to blunt the damaging wave energy and storm surge effects from major coastal storms. Property loss and risk to human life during storm events increase as natural infrastructure succumbs to the effects of nitrogen pollution.

SOLUTION

The systematic replacement of septic systems in priority areas has increasingly become a goal of municipalities and states around the nation as the impacts of septic system-driven nutrient pollution have impacted their local economies and negatively affected human health. Estimates for Long Island, NY alone are $10 billion for septic system upgrades to improve water quality and protect natural infrastructure.

Upgrading septic systems with new, proven technology is considerably cheaper than sewering the same areas with construction of sewage treatment plants – and represents significant cost savings over that infrastructure solution even where population densities would suggest that sewering is a potential solution to nutrient pollution from septic systems. The proven technology, Nitrogen Removing Biofilters (NRBs), a form of passive wastewater treatment, has demonstrated up to 90% of nitrogen and efficient removal of pathogens. (http://www.stonybrook.edu/commcms/cleanwater/whitepaper.html)

PERFORMANCE

Advanced and innovative onsite septic systems wastewater treatment technologies that remove 50-60% of nutrients exist and are already in common use, particularly in areas where drinking water must be protected. New and cost-effective technologies have come on-line in the last five years that remove 90 – 95% of nutrient pollution such as nitrogen. These technologies are effective, and many are now available at a competitive cost compared to standard septic technologies.

(References for this section: https://www.epa.gov/septic/septic-systems-overview; https://www.whoi.edu/redtide/impacts/economic)

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Natural Infrastructure: What Does It Mean?

Natural infrastructure incorporates both the natural environment and engineered systems that mimic natural processes or work in concert with natural systems to provide flood, fire and drought risk reduction, clean water, and clean air benefits. Natural infrastructure delivers economic, societal and environmental benefits.

At its essence, natural infrastructure can protect, restore, or mimic the role that nature plays—the ecological processes—including, but not limited to, water quality and quantity processes. Natural infrastructure uses vegetation, soil health, land protection, land management and other elements and practices to protect, maintain and restore the natural processes required to manage water and other natural processes, create healthier environments, and protect human communities.

Natural infrastructure solutions can be applied on different scales: at the city, county or regional scale. By using nature, damages and impacts can be minimized and communities can recover more quickly from disasters and impacts.

Benefits of Natural Infrastructure

- Keep people and structures out of harm's way
- Reduce wave heights and storm surge
- Store and convey water
- Improve water quality
- Reduce drought impacts
- Reduce threat of catastrophic fires
- Reduce summer heat and improve air quality
- Reduce erosion and sedimentation
- Provide greenspaces, greenways and recreational opportunities
- Provide habitat for fish and wildlife

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Types of Infrastructure Projects

River work	Coastal work	Urban work
• Reconnecting river to floodplains	• Conserving/restoring coastal marshes	• Constructed wetlands
• Levee setbacks and realignments	• Conserving/restoring oyster and shellfish reefs	• Bioretention cells
• Flood bypasses	• Conserving/restoring coral reefs	• Planting trees
• Conserving/restoring watershed forests	• Building living shorelines	• Conserving lands in watershed headwaters
• Conserving/restoring river corridors	• Conserving/restoring intertidal flats	• Sustainable forest management
• Conserving/restoring wetlands	• Conserving/restoring mangroves	
• Constructing wetlands		
• Establishing flood water detention areas		
• Fish/flood friendly culverts/bridges		
• Dam removal		
• Establishing filter strips, grassed waterways on farm fields		

Mobile Bay, Alabama

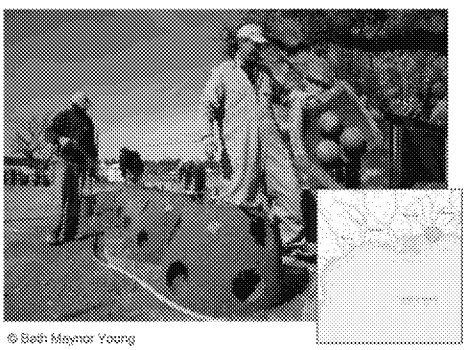
Project Type: Flood and/or Erosion Risk Reduction

Mobile Bay is the fourth largest estuary in the continental United States and plays an important role in nurturing the finfish, shrimp and oysters that are vital to Gulf communities.

Unfortunately, Mobile Bay—like the rest of the Gulf Coast—has lost many of its oyster reefs, seagrass beds and coastal marshes. Losing these reefs has meant increased shoreline erosion and related property damage.

Despite these challenges, Mobile Bay remains one of the largest potential areas for outright restoration, replacement and enhancement of these lost habitats on the Northern Gulf Coast.

The Conservancy is working with partners, including the U.S. Army Corps of Engineers, to build 100 miles of oyster reef and plant 1,000 acres of coastal marsh and seagrass here to help replenish the coastal waters and reduce shoreline flood impacts to local communities.



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Hamilton City, California

Project Type: Flood and/or Erosion Risk Reduction

In partnership with the U.S. Army Corps of Engineers, the California Department of Water Resources, and Reclamation District 2140, the Conservancy is championing a $73 million project where, for the first time, the Army Corps designed a multi-benefit project to specifically reduce flood damages and restore critical floodplain habitat on the Sacramento River.

Construction began in spring 2016 building a new 6.8-mile setback levee, along with reconnecting 1,450 acres of floodplain between the new set-back levee and the river.

Approximately 1,361 acres will be restored to native riparian habitat and significantly reduce flood risk to the City of Hamilton, which has frequently evacuated due to flooding.

The Sacramento River supports important agricultural areas and critical wildlife habitat. © Jeff Fricker

Emiquon Preserve, Illinois

Project Type: Flood and/or Erosion Risk Reduction

The Nature Conservancy restored 5,900 acres of functional floodplain wetlands and five river miles along the Illinois River in Fulton County, Illinois.

Included in this restoration was, in consultation with the U.S. Army Corps of Engineers, the installation of a state-of-the-art flood control structure.

The final result of this restoration connected floodplain to the 7,000 acres of adjacent Chautauqua National Wildlife Refuge lands, resulting in 14,000 acres of contiguous conservation lands, providing flood control, environmental restoration, and public access to wildlife and waterfowl habitat.

The Nature Conservancy uses its Emiquon Preserve to demonstrate and measure the benefits of restored floodplains and wetlands. © Christine Rutter

Water control structure at Emiquon preserve.

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South Cape May Meadows Preserve, New Jersey

Project Type: Flood and/or Erosion Risk Reduction

In partnership with the U.S. Army Corps of Engineers and the State of New Jersey, the Conservancy undertook a $15 million restoration project that combined natural features like dunes and wetlands with levees and other engineered structures to control water.

Completed in 2004, the restored preserve has since withstood a series of severe storms, including Irene in 2011 and Sandy in 2012.

Storm waves didn't breach the dunes, wetlands remained intact, and the preserve helped protect neighboring communities, which experienced only minor flooding unlike similar towns up and down the coast.

The Nature Conservancy has helped restore over 830 acres of coastal dunes, which can help protect communities from storms. © Harold E. Malde

Whittenton Dam, Taunton, Massachusetts

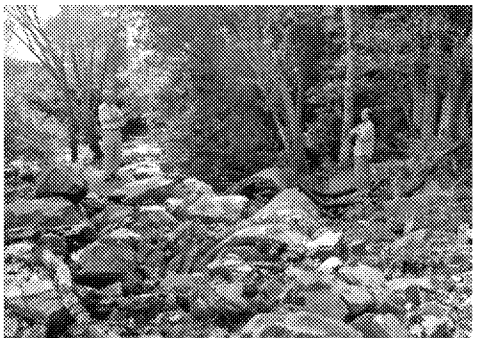
Project Type: Flood and/or Erosion Risk Reduction

In Massachusetts alone, there are close to 3,000 dams; many of them are relics of bygone uses.

The Whittenton Pond Dam was in disrepair, and heavy rains in 2005 brought the threat of a catastrophic breach and flooding of downtown Taunton, which was evacuated for a week as the dam appeared on the verge of failure.

Removing the dam was less expensive than repairing it, with rebuilding cost estimated to be $1.9 million and removal cost of $447,000.

The dam's removal in 2013 opened 30 miles of river habitat to vulnerable fish species, avoided $1.5 million in emergency response cost, increased numbers of two vulnerable species (American eel and river herring), and increased property values due to the lower flooding risk.



Whittenton Mills dam, damaged during 2005 storm, photo credit: MA Division of Ecological Restoration

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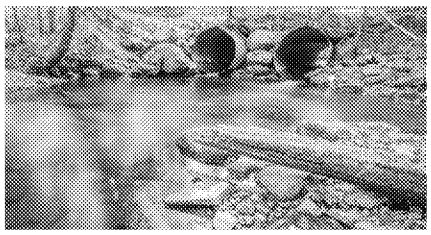
Ausable River Watershed, New York

Project Type: Flood and/or Erosion Risk Reduction

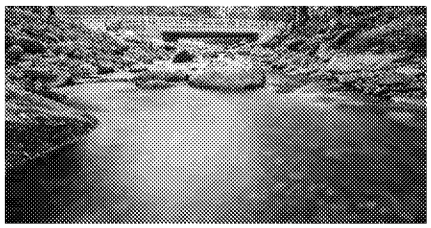
Undersized stream crossings are prone to damage from high flow events and require more frequent maintenance and replacement. During major storms, undersized culverts block water, clog with debris and worsen flood impacts, requiring expensive repairs to the culverts, nearby roads, and private property. When roads shut down due to this damage, it creates lengthy detours, often affecting access to local businesses. Poorly designed and installed culverts also block fish and wildlife movement and impact habitat for economically important fisheries.

In August 2011, Tropical Storm Irene brought significant rainfall to much of New England and eastern New York, resulting in unprecedented flood damage to infrastructure.

The Conservancy secured private and government grant funding to replace and retrofit high ecological priority, flood-vulnerable culverts in New England and in upstate New York. To date, The Conservancy has worked with government and non-profit partners to complete three culvert replacements and two culvert retrofit projects in the Ausable River Watershed in the Adirondacks. These projects connect over 65 miles of previously fragmented fish habitat, mitigate future flood damage, improve safety on vital local road networks, and reduce maintenance costs for communities. The culvert upgrades prevent future road damage that occurs when undersized culverts blow out during floods.



Roaring Brook culvert prior to replacement. At lower flows this culvert outlet was perched above the water surface, creating a barrier to the movement of fish. The stream was constricted by the pipes' combined span of 12 feet, which caused debris build-up and localized flooding.



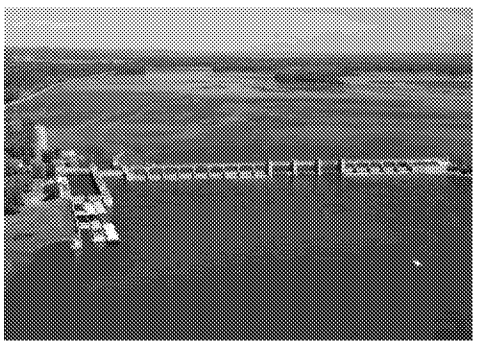
Roaring Brook culvert replacement: With a width of 35 feet, the new culvert – an open-bottom concrete box with a natural streambed – allows the stream to pass freely underneath, opening six miles of upstream habitat for fish and designed to withstand high water flows.

Upper Mississippi River

Project Type: Flood and/or Erosion Risk Reduction

In cooperation with a diverse group of Upper Mississippi River (UMR) stakeholders, The Nature Conservancy is working to garner federal appropriations for a dual-purpose program called the Navigation and Ecosystem Sustainability Program (NESP). As the name implies, this program is a measured plan to create a sustainable navigation system with strategic improvements at 7 of 37 locks and other small-scale efficiency measures. Safe and efficient movement of traffic would be renewed on the navigation system, which was constructed almost 80 years ago and is now facing continual rehabilitation to maintain. At the same time, comparable funding for ecosystem restoration on the UMR will afford the opportunity to use additional techniques for river restoration such as reconnecting 35,000 acres of river floodplain; providing native fish passage; regenerating floodplain forests; and managing water levels closer to historic conditions to replicate more natural seasonal conditions.

These new techniques, along with well-established river enhancement measures to revitalize river channels, backwaters and floodplain habitats are estimated to restore 40 percent of degraded UMR ecosystem. A higher-functioning ecosystem provides human and natural services through increased nutrient processing, flood storage capacity, ground water infiltration, cleaner water, and improved fish and wildlife habitat.



Lock extensions from 600' to 1200' will increase efficiency at the 7 lock improvement sites by eliminating the need double locking (as shown in picture) which is standard practice at all but two locks on the 37 lock system of the UMR. Deintegrating concrete and mechanical systems will be rehabilitated or replaced as the lock is lengthened.

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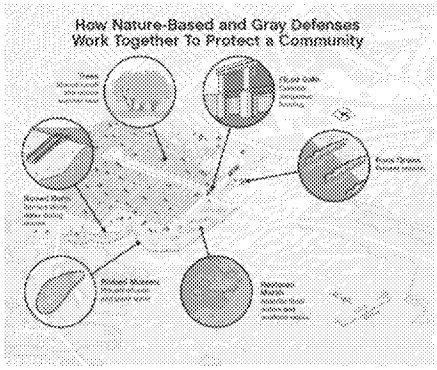
Howard Beach, Queens, New York

Project Type: Flood and/or Erosion Risk Reduction

In the wake of Hurricane Sandy, The Nature Conservancy undertook a project evaluating the role of nature and nature-based infrastructure in protecting communities from some of the impacts of climate change. The community of Howard Beach, Queens, was selected as a case study for the project because this neighborhood, hit hard during Sandy, is low-lying and densely populated. Although Howard Beach was used in the analysis, the study methodology is applicable to coastal communities across New York City and around the globe.



Infographic of design alternatives studies.

Experts analyzed several infrastructure alternatives, ranging from purely nature-based solutions to one consisting of only gray defenses. The study found that combining natural and gray defenses holds the most benefits. Analysis shows that a hybrid alternative could result in avoided losses in this one neighborhood of up to $244 million from the current 1-in-100-year storm event.

The best conceptual alternative and most cost-effective, according to the study, utilizes restored marsh habitat on the coast, hard toe mussel beds along the shoreline, floodgates and sea walls to protect against storm surge and rising sea levels and rock groins on the shoreline to help prevent erosion.

Rio Grande Water Fund, New Mexico

Project Type: Flood and/or Erosion Risk Reduction

The Rio Grande Water Fund is a ground-breaking project that is engaging private and public partners in proactively protecting vital watersheds in northern New Mexico.

Wetlands at Valles Caldera National Preserve. The Rio Grande Water Fund engages private and public partners in protecting vital watersheds in northern New Mexico. Photo credit: © Alan W. Eckert for The Nature Conservancy

Frequent, high-severity wildfires and subsequent post-fire flooding increasingly threaten the Rio Grande's water security and cause extensive soil erosion that degrade water quality for communities downstream. Restoring overgrown forests is a proven solution to make forests safer and healthier, and such efforts were already underway at a small scale before the devastating Las Conchas fire blazed in 2011. This fire demonstrated that the pace and scale of these treatments was insufficient to guarantee water security for Albuquerque and irrigated agricultural lands. The Rio Grande Water Fund works to generate sustainable funding for a 20-year, large-scale program to restore the health of the forest and watershed with treatments that include thinning overgrown forests, restoring streams and rehabilitating areas that flood after wildfires.

This approach makes good economic sense over the long-term. A recent study estimated the cost of damages from wildfires 2009 to 2012 in New Mexico was $15 billion. In contrast, the Rio Grande Water Fund estimates a total cost of $420 million over 20 years to accelerate the pace and scale of forest treatments and restoration. Preserving and restoring these forests will help ensure the sustainability of New Mexico's water supply and increase social and economic benefits for local communities.

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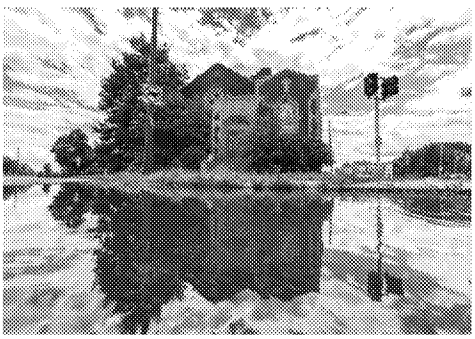
Detroit, Michigan

Project Type: Water quality and flood risk reduction with stormwater management

Like many aging cities, Detroit faces water infrastructure challenges. The city's sewer system is combined to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipes. Heavy rain events overwhelm the system's capacity, creating raw sewage overflows that flood basements and overflow into rivers and ultimately the Great Lakes.

Under the Clean Water Act, the city is required to completely eliminate all combined sewer overflow (CSO) discharges, yet the costs of implementing traditional "gray" infrastructure are only increasing, with current estimates at $1.2 billion. To help reduce or offset these costs, The Nature Conservancy is working with the city to incorporate green infrastructure, a form of natural infrastructure used in cities. The design uses green space and natural plant material to absorb, retain, and slow stormwater runoff, reducing the amount of water entering the storage facility for treatment, reducing CSO's, and decreasing surface flooding. This, in turn, should lead to improved water quality in adjacent rivers and lakes, as well as attractive green spaces that contribute to neighborhood revitalization by offering recreational areas and beautification opportunities.

The Conservancy has also provided technical assistance to develop policies that have helped finance and encourage green infrastructure solutions within Detroit. These policies have enabled economic markets and private investment in support of public amenities in new innovative ways.



Local flooding in Detroit, the result of aging infrastructure and heavy rain. Photo credit: Michael David Lorne Jordan/David Lorne Photographic

Louisville, Kentucky

Project Type: Water quality and flood risk reduction with stormwater management

The Nature Conservancy is working with partners to conduct a rigorous evaluation of the link between urban vegetation/greenspace and cardiovascular disease. The goal is to foster the development of public health policy that incentivizes using increased tree canopy and other forms of nature to achieve better health outcomes.

The desire is to quantify avoided healthcare costs as a way to identify and create a funding stream for large-scale and sustained urban tree and other vegetation plantings.

The aim is to create a replicable model for neighborhood greening that other cities and developing countries can adopt. The project hopes to provide more scientific evidence of the value of nature to people.

The Conservancy plans to manage about $8 million in greening interventions, with planting beginning in 2017 and continuing for a couple of years.

Louisville's heat island has been steadily worsening over the decades, especially in low-income neighborhoods, where temperatures can be 20 degrees higher than surrounding areas.

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Washington, DC

Project Type: Water quality and flood risk reduction with stormwater management

To mitigate stormwater runoff, Washington D.C. instituted a first-of-its-kind Stormwater Retention Credit (SRC) market. The market reduces the impact of stormwater runoff—the largest growing source of pollution to the Chesapeake Bay watershed and the fastest growing source of urban water pollution globally. It allows land-constrained developers to meet a portion of their stormwater retention requirements by purchasing SRCs. Credits are generated by stormwater retention projects elsewhere in the city, including green infrastructure projects. Investments in green infrastructure for stormwater retention can bring income to landowners and provide valuable co-benefits, including expanded green space, reduced localized flooding, increased flexibility and onsite revenue options for developers, and jobs to build and maintain green infrastructure sites. Offsite credit projects create opportunities for infrastructure investments in underserved communities.

Example of a stormwater retention project

The Nature Conservancy's NatureVest is partnering with Encourage Capital to establish and capitalize District Stormwater, LLC. (DS), which will finance and develop SRC-generating projects. DS will work with landowners and community groups to site credit-generating projects in parts of the District that would most benefit from green infrastructure, while creating liquid, cost-competitive credits for sale in the SRC market. DS anticipates mitigating 500,000 gallons of runoff annually. This will protect fragile ecosystems, such as the Chesapeake Bay, that are too often overrun by polluted stormwater that can contain raw sewage; provide infrastructure services to underserved communities through increased green space and the reduction of localized flooding; and inspire new conservation-minded people as they see the benefits of green infrastructure in their communities.

Long Island, New York

Project Type: Water quality protection

In what started with the conservation of 11,000 acres of bottomlands in the Great South Bay in 2002, followed by hard clam restoration efforts in collaboration with local, state and federal resource managers and stakeholders, The Nature Conservancy has embarked on a major campaign to improve water quality on Long Island.

After shellfish restoration efforts did not perform as expected, research was conducted and a group of scientists discovered that nitrogen pollution from wastewater was contaminating Long Island's groundwater and bays at a level high enough that marine life could not thrive. Since that time the situation has worsened and fish kills and toxic algae blooms have become more frequent.

The Nature Conservancy and partners are currently working with local, state and federal agencies as well as stakeholders to upgrade municipal wastewater infrastructure and onsite wastewater systems from outdated cesspools and septic systems to technology that will remove nitrogen pollution and improve water quality. This will secure the region's fishing and tourism industries into the future, restore tidal marshes that enhance community resilience to storm impacts, and protect public health.

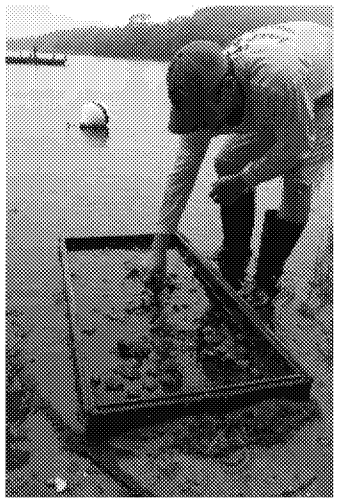

Photo: Kenton Rowe, TNC

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Appendix B: Coastal Natural Infrastructure References

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Natural Infrastructure

EFFECTIVE, ECONOMICAL AND SUSTAINABLE SOLUTIONS TO MEET AMERICA'S NEEDS

Bill Williams River, Arizona. © Tana Kappel/TNC

Infrastructure policy should include nature-based solutions to support robust economic development, improve the quality of life in our communities and sustain America's lands and waters for future generations.

The need to improve and maintain America's infrastructure is well recognized. In its 2017 scorecard, the American Society of Civil Engineers gave the state of the nation's infrastructure a "D+" grade. Increasing impacts from extreme weather events, which have caused more than $1 trillion in damages since 1980, make the challenge even greater. Infrastructure failures are becoming all too common, such as South Carolina's extreme flood events in 2015 and 2016 resulting in 76 dam failures.

Nature is a smart solution to help meet our nation's infrastructure needs. It is an effective, economical and sustainable investment that can provide clean and reliable water supplies, improve and maintain our harbors and inland waterways and reduce risks from floods, droughts and fires. Investments in natural infrastructure provide multiple economic, environmental and social benefits to communities that need functioning infrastructure and a healthy environment.

For example, we are safer during floods when rivers have more room for floodwaters to disperse and slow down rather than rise, rage and threaten communities. Along our coasts, natural features like sand dunes, marshes and reefs reduce wave heights and absorb storm surges.

Natural infrastructure can be used alone or alongside "gray" infrastructure (like seawalls, dams, levees, water and wastewater systems) to provide cost-effective and sustainable solutions that provide multiple benefits. In addition to helping reduce risk, natural infrastructure can deliver clean water and air, sustain lands that grow our food and provide enhanced recreational opportunities and wildlife habitat—all benefitting local economies.

Policy Recommendations

Ensure consideration of nature and nature-based solutions in our infrastructure projects.

Improve community quality of life and save taxpayer dollars by encouraging resilient approaches and ensuring collaboration with local partners when fixing structures subject to repeated failures due to extreme weather disasters.

Establish innovative finance mechanisms that enable and encourage leveraging federal investment with other federal, state, local and private investments.

Promote advanced mitigation to improve project delivery and outcomes by allowing environmental considerations to be incorporated prior to the start of construction.

Case Study: Hamilton City, Calif.

In partnership with the U.S. Army Corps of Engineers, the California Department of Water Resources and Reclamation District 2140, the Conservancy is championing a $73-million project where, for the first time, the Army Corps designed a multi-benefit project to specifically reduce flood damages and restore critical floodplain habitat on the Sacramento River.

Construction began in spring 2016. When completed, a new 6.8-mile setback levee will reconnect 1,450 acres of floodplain between the levee and the river. Approximately 1,361 acres will be restored to native riparian habitat and significantly reduce flood risk to the city of Hamilton, where evacuations have taken place six times in the past few decades.

A heron on the banks of the Sacramento River, which supports agriculture and critical habitat. © Grant Johnson

Natural Infrastructure is Economic and Effective

Coasts

In a 2016 study, The Nature Conservancy, in partnership with Risk Management Solutions (a global leading risk modeler for the insurance industry), Guy Carpenter & Company and others showed that coastal wetlands saved over $650 million in property damages during Hurricane Sandy and reduced annual property losses by nearly 20 percent in Ocean County, New Jersey.

Rivers

To meet its temperature requirements for water discharges into the Rogue River from its wastewater treatment facility, the city of Medford, Oregon, evaluated one nature-based and two built alternatives. An economic analysis showed that the river restoration—the natural infrastructure option—was three times more cost effective than a built option. The nature-based option also provides additional benefits, such as better wildlife habitat and water quality.

Urban

Thousands of cities throughout the nation are under court order to improve water quality impaired by stormwater overflows. An EPA analysis documented an avoided capital cost of $120 million by the city of Lancaster, Pennsylvania, stemming from the city's decision to use a blended gray and natural infrastructure solution to address water quality pollution occurring from stormwater overflows.

Natural Infrastructure Investments Demonstrate Success

Washington, DC. To mitigate stormwater runoff, Washington, DC has instituted a first-of-its-kind Stormwater Retention Credit (SRC) market. The market reduces the impact of stormwater runoff, which is the largest growing source of pollution to the Chesapeake Bay watershed. It allows land-constrained developers to meet a portion of their stormwater retention requirements by purchasing SRCs. SRCs are generated by stormwater retention projects elsewhere in the District, including green infrastructure projects.

Investments in green infrastructure for stormwater retention can bring income to landowners and provide a host of valuable co-benefits, including expanded green space, reduced localized flooding, increased flexibility and onsite revenue options for developers, and jobs to build and maintain green infrastructure sites. In particular, offsite credit projects create opportunities for infrastructure investments in underserved communities.

Example of a stormwater retention project in the parking lot of the First United Methodist Church of Hyattsville, Maryland. The site is a part of a project that prevents millions of gallons of stormwater from running into an Anacostia River tributary.

Contact: Sarah Murdock | The Nature Conservancy | (617) 510-1689 or smurdock@tnc.org

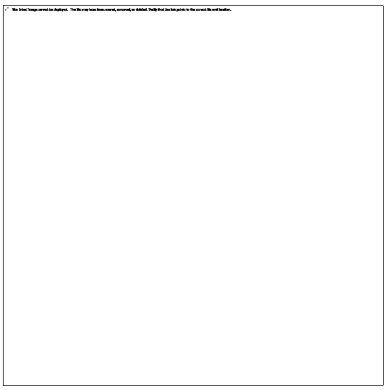
The Nature Conservancy is a leading conservation organization working around the world to protect ecologically important lands and waters for nature and people. Visit us at nature.org.

6/14/17

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/20/2018 4:15:02 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Brindisi Leads in NY-22, News from the campaign trail, Moderate Dems surging, The 80s are back!

Brindisi Leads in NY-22, News from the campaign trail, Moderate Dems surging, The 80s are back!



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Straight from The Well

Saturday, October 20, 2018

Going out on the trail? We want to hear from you!

Headed out on the campaign trail for this year's midterm elections? Email us at press@thewellnews.com with any stories, anecdotes or insights from the ground, and we'll highlight them in our next newsletter. You can also provide general feedback by taking our October reader survey here. We want to hear from you!

POLITICAL REFORMER ANTHONY BRINDISI FOCUSES ON EDUCATION, HEALTHCARE IN BID TO UNSEAT INCUMBENT CLAUDIA TENNEY

New York's 22nd Congressional District

Unlike many first time Democratic candidates running for federal office this year, Anthony Brindisi is no stranger to working across the aisle to get things done. While many of his peers have yet to hold office at any level of government, Brindisi already boasts a successful career serving in the New York State Assembly, experience he hopes will serve him as he looks to unseat Republican Representative Claudia Tenney, who has served the 22nd Congressional District since 2017. Read more.

IN THE WAKE OF HURRICANE MICHAEL, CRIST, WILLIAMS MOVE TO HELP HOMEOWNERS AND BUSINESSES BETTER PROTECT PROPERTY FROM STORM DAMAGE

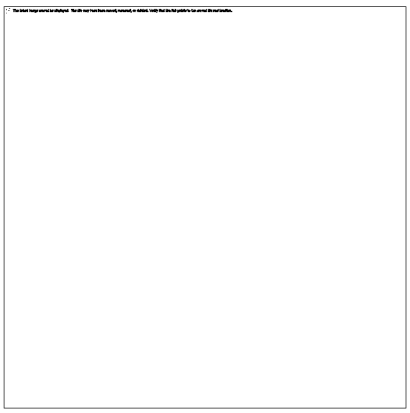
Bipartisan Legislation

In the wake of Hurricane Michael, a fast-moving storm that recently devastated the Florida Panhandle, Representatives Charlie Crist (D-FL) and Roger Williams (R-

TX) have come together to address the high cost of flood insurance premiums. The two collaborated at a time when partisanship is at its highest, just before the midterm elections, to introduce bipartisan legislation that they contend is necessary to protect both public safety and the economy. Read more.

The Brat Pack is Back!

Florida's 7th Congressional District



Get out the slap bracelets, pop rocks and turn on "Pretty in Pink"…the 80's are back! Or at least they seem to be for Florida State Rep. Mike Miller. Miller, who is challenging incumbent Rep. Stephanie Murphy in Florida's 7th Congressional District, threw his support behind Andrew McCarthy for Speaker during a debate this week. When asked who he would support for Speaker, Miller said "I actually would vote for the Republican leader. I would vote for Andrew McCarthy, who Paul Ryan has said would be a wonderful speaker and would keep us on the exact thing we talked about – less taxes, less regulation and more economic freedom. So I would stick with my caucus and vote for Andrew McCarthy."

To which Murphy responded, "You may want to recognize that his name is Kevin McCarthy."

Miller's reaction? "What'd I say, Andrew? Oh, he's the actor!"

On the Trail

Countdown to the Midterms

AZ (Senate): Candidates for Arizona's U.S. Senate seat, U.S. Representatives Kyrsten Sinema (D) and Martha McSally (R), debated at an event hosted by Arizona PBS and the Arizona Republic in Phoenix. Watch the debate here.

AZ-01: Representative Tom O'Halleran received the endorsement of the Arizona Police Association, which represents over 40 police organizations throughout the state of Arizona from local departments, to corrections officers' associations to the officers assigned to protect our nation's border.

CA-25: Representatives Hakeem Jeffries (NY-8) and Pramila Jayapal (WA-7) traveled to California to campaign for Katie Hill, who is running against incumbent Representative Steve Knight. Human Rights Campaign President Chad Griffin also joined Hill on the trail. Hill raised over $3.8 million in the third quarter.

CA-52: Representative Scott Peters received a re-election endorsement from the United States Chamber of Commerce for his pro-business, pragmatic approach to policy. Peters was one of only six House Democrats to receive a 2016 endorsement from the U.S. Chamber. Peters is also endorsed by the San Diego Regional Chamber of Commerce.

FL-07: Representative Stephanie Murphy hosted a roundtable discussion on climate and environmental issues and the impact climate change is having and will continue to have on the state of Florida. Murphy was joined by the League of Conservation Voters and the Sierra Club, both of which have endorsed Murphy.

IL-10: Brad Schneider announced more than a dozen local mayors and village presidents have endorsed his campaign for re-election. Schneider has also received endorsements by the editorial boards of the Daily Herald and the Chicago Sun-Times.

IL-12: Representative John Lewis, an icon of the Civil Rights Movement, traveled to Illinois to join Brendan Kelly on the campaign trail this week. Kelly is running against incumbent Republican Representative Mike Bost.

IN (Senate): Joe Donnelly has set a personal fundraising record, raising over $3 million in his best quarter to date. Donnelly for Indiana ended the third quarter with more than $4.5 million in the bank.

NC-09: The Charlotte Observer officially endorsed Democratic candidate Dan McCready in his race against Mark Harris. A Democrat hasn't represented North Carolina's 9th Congressional District in 56 years.

NV-03: Driven by a grassroots coalition of over 12,000 donors, local education advocate and Democratic congressional candidate Susie Lee reported raising over $1.7 million in the 3rd quarter.

TX (Senate): Representative Beto O'Rourke debated Senator Ted Cruz this week. See how social media reacted.

VA-07: Democratic candidate Abigail Spanberger went toe-to-toe in a debate with incumbent Representative Dave Brat this week. Watch Spanberger's closing remarks here.

VA-10: The Washington Post Editorial Board endorsed Jennifer Wexton in the race for U.S. Representative for Virginia's Tenth District. The Post wrote that the "clear and convincing competence of [Comstock's] Democratic rival, state Sen. Jennifer Wexton, inform our decision this year to support Ms. Wexton."

About Stand with Parkland

MISSION STATEMENT

Stand with Parkland is a national organization representing American families. We are committed to advocating for practical public safety reforms focused on the safety of our children and staff at school, improved mental health support, and responsible firearms ownership. Personal responsibility and a desire for change are paramount to this effort, and it is the people involved at all levels that will make these goals a reality. Violence in our schools affects everyone. It is an American epidemic, and it is time that we all come together to do something about it.

ICYMI: SENATE DEMS PRESS FOR DISCLOSURE OF TRUMP BIZ TIES TO SAUDI ARABIA

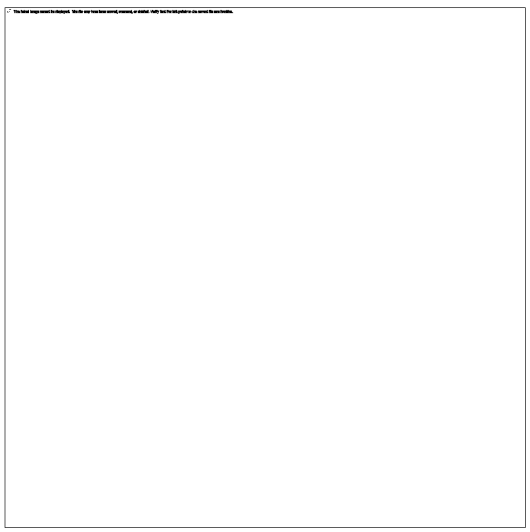
This week, 11 Senate Dems sent a letter to President Trump and the Trump Organization seeking a full accounting of any financial ties between the Trump Organization and the Kingdom of Saudi Arabia. The senators' letter follow the disappearance and reported killing of Jamal Khashoggi, a resident of the United States and Washington Post journalist.

"It is imperative that this sanctions determination, and U.S. policy towards Saudi Arabia generally, are not influenced by any conflicts of interest that may exist because of your or your family's deep financial ties to Saudi Arabia," the senators wrote in the letter.

Candidate Profile: Jennifer Wexton

Virginia's 10th Congressional District

From 2001 to 2005, Jennifer served as an Assistant Commonwealth's Attorney for Loudoun County, prosecuting felony and misdemeanor criminal and traffic cases in all of the Loudoun Courts. She successfully prosecuted hundreds of trials, including the prosecution of criminals who committed domestic violence or sexual offenses. Among them were a number of high-profile cases, including the 2002 murder trial Commonwealth v. Clara Jane Schwartz.



View Profile

Socialists Won't Be on Many Ballots This Fall. Moderate Democrats are Surging.

Opinion by Anne Kim

Candidates affiliated with the Democratic Socialists and the progressive left have pushed hard this cycle for a campaign agenda heavy on government giveaways, such as free health care ("Medicare for All"), free college, guaranteed jobs and perhaps even free money ("universal basic income").

Few of these candidates, however, will be on the ballot this fall. Rather, the insurgent left has been broadly rejected in one primary after another — and by Democrats theoretically predisposed to this pitch. Read more.

IN THE NEWS

- **Trump Uses Inflated Figures to Argue That Foreign Sales Are Ties That Bind US to Saudi Arabia**

  By Noah Bierman

- **Democrats' Path to Winning the House Runs Through the Midwest**
  By Philip Elliott, TIME

- **Brat to Inmates: 'You Think You're Having a Hard Time...'**

  By Emily Kopp

- **Medicaid Expansion Is a Win for Idaho's Neediest**
  Opinion by Idaho Statesman Editorial Board

- **Mega Billion: The Jackpot for Friday's Drawing Reaches Milestone Amount**

  By Carl Lisciandrello

MIDTERMS 2018

Polling and Ads

Rep. Brad Schneider's (IL-10) campaign released their second TV ad, "Bygone Era," this week highlighting his work reaching across the aisle to make progress on health care and get dark money out of politics.

Serve America PAC rolled out its final two endorsements of the cycle, John Fetterman (Lt. Governor nominee in Pennsylvania and City Year veteran) and

Xotchil Torres Small (Congressional Candidate, NM-02 and a New Generation Leader). So far during the 2018 cycle, Rep. Seth Moulton has raised over $6 million dollars between Serve America PAC, Serve America Victory Fund, and Serve America Women's, Victory Fund.

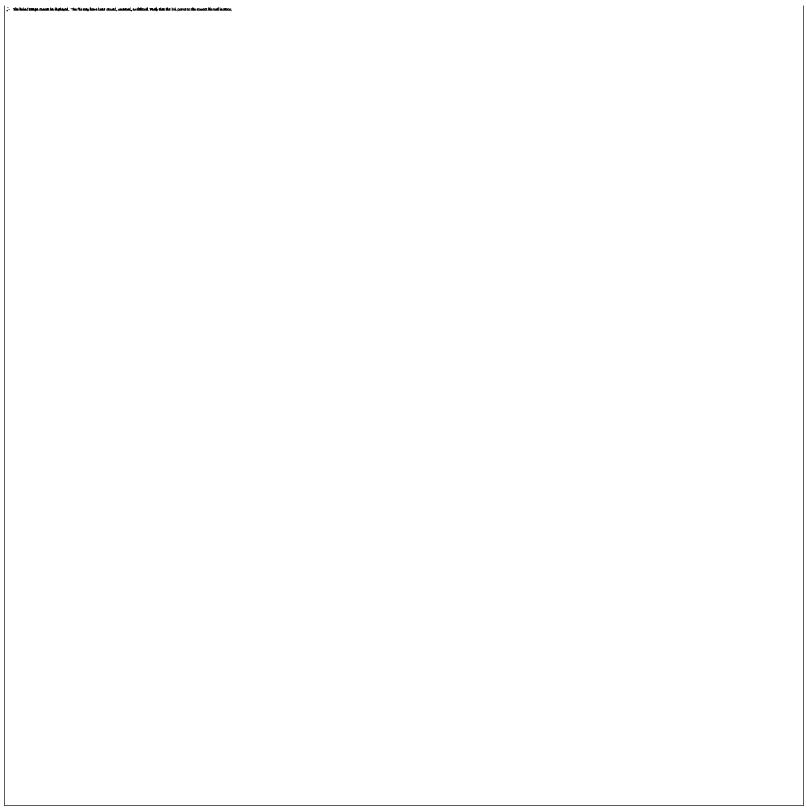
The Chris Hunter for Congress Campaign released "Sold Out." The television ad is running in Florida's 12th congressional district. Hunter, a former Justice Department prosecutor and FBI agent, is challenging incumbent Gus Bilirakis.

Indiana Senator Joe Donnelly's campaign released a new TV ad, "Axe," which discusses how Joe splits with his party when it's right for Hoosiers.

Rep. Beto O'Rourke rolled out three new direct-to-camera ads taking incumbent Senator Ted Cruz head on in the high profile Texas Senate race. Watch Teachers, The Future of Healthcare, and The Future of Immigration.

Rep. Scott Peters's campaign released their second TV ad this week, "Looking Out for Us." The ad features San Diego resident and Navy Veteran Kevin Inman who recognizes Rep. Peters's continued efforts to help veterans.

CARTOON OF THE WEEK



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ENVIRONMENTAL

Wednesday, October 24, 2018

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Chatterjee Replaces Ailing McIntyre As FERC Chairman

Federal Energy Regulatory Commission Chair Kevin McIntyre said late Wednesday that he was relinquishing his chairmanship due to health problems and will simply serve as a commissioner, and President Donald Trump tapped Commissioner Neil Chatterjee to take McIntyre's place leading the agency.

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To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: new paper
Attachments: Muller-Nobel Prize-1.pdf

Ryan:

See this new paper.....it gets to the heart of the start of the LNT model. It is a short and interesting read.
Please share with your colleagues.

Ed

Calabrese *Philosophy, Ethics, and Humanities in Medicine* (2018) 13:15
https://doi.org/10.1186/s13010-018-0066-z

Philosophy, Ethics, and Humanities in Medicine

REVIEW Open Access

Muller's nobel prize research and peer review

Edward J Calabrese

Abstract

Background: This paper assesses possible reasons why Hermann J. Muller avoided peer-review of data that became the basis of his Nobel Prize award for producing gene mutations in male *Drosophila* by X-rays.

Methods: Extensive correspondence between Muller and close associates and other materials were obtained from preserved papers to compliment extensive publications by and about Muller in the open literature. These were evaluated for potential historical insights that clarify why he avoided peer-review of his Nobel Prize findings.

Results: This paper clarifies the basis of Muller's (Muller HJ, Sci 66 84-87, 1927c) belief that he produced X-ray induced "gene" mutations in Drosophila. It then shows his belief was contemporaneously challenged by his longtime friend/confidant and Drosophila geneticist, Edgar Altenburg. Altenburg insisted that Muller may have simply poked large holes in chromosomes with massive doses of X-rays, and needed to provide proof of gene "point" mutations. Given the daunting and uncertain task to experimentally address this criticism, especially within the context of trying to become first to produce gene mutations, it is proposed that Muller purposely avoided peer-review while rushing to publish his paper in *Science* to claim discovery primacy without showing any data. The present paper also explores ethical issues surrounding these actions, including those of the editor of *Science*, James McKeen Catell and Altenburg, and their subsequent impact on the scientific and regulatory communities.

Conclusion: This historical analysis suggests that Muller deliberately avoided peer-review on his most significant findings because he was extremely troubled by the insightful and serious criticism of Altenburg, which suggested he had not produced gene mutations as he claimed. Nonetheless, Muller manipulated this situation (i.e., publishing a discussion within *Science* with no data, publishing a poorly written non-peer reviewed conference proceedings with no methods and materials, and no references) due to both the widespread euphoria over his claim of gene mutation and confidence that Altenburg would not publically challenge him. This situation permitted Muller to achieve his goal to be the first to produce gene mutations while buying him time to later try to experimentally address Altenburg's criticisms, and a possible way to avoid discovery of his questionable actions.

Keywords: Gene mutation, X-ray, Nobel Prize, Hermann J. Muller, History of science, Peer review, Drosophila

Background

Hermann J. Muller [20] claimed that high doses of X-rays induced gene mutations in Drosophila in his paper entitled the "Artificial Transmutation of the Gene", introducing the concept of point mutation (page 87, left column). In a recent paper, I argued that Muller deliberately avoided peer review of his Nobel Prize data to win the race to become the first to report such uniquely important findings [12]. However, further examination of the underlying reasons for Muller's avoidance of the peer review process suggests it may not have been simply to win the race to publication. This paper offers a more nuanced and novel hypothesis that Muller feared his "landmark" paper may fail the peer review process since the critical gene mutation interpretation was not supported by data. This concern resulted in Muller devising a camouflaged process to avoid peer review while still retaining his worldwide acclaim thereby securing "primacy" for a discovery that would later yield a Nobel Prize.

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The new interpretation

Despite the rapid and massive acclaim Muller received following his presentation revealing X-ray induced gene mutation at the Fifth International Genetics Congress in September, 1927 [13], his striking gene mutation interpretation was not immune to criticism. In fact, Muller was acutely sensitive to insightful, yet private criticism, by his closest friend Edgar Altenburg [22] that he had "only" produced hundreds of transgenerational phenotypic changes with no proof of his gene mutation interpretation. While the production of massive numbers of such genetic changes in such a short period of time was overwhelming to many, for Altenburg it remained a potentially important observation in search of an explanation. He told Muller that he needed to show that the high dose mutation-inducing X-rays were not merely blasting holes in large sections of chromosomes, producing the heritable phenotypic changes via a chromosomal deletion rather than a gene mutation mediated process. For Altenburg this was the crucial question and Muller knew that he was correct.

For Muller this criticism was devastating as he had come so close to the goal of gene mutation discovery, only to be "denied" the satisfaction by his best friend, who offered a more objective perspective. While Muller needed to hear this criticism, he also was blinded by ambition to be first on perhaps the most critical question of the day in biology, that is, discovery of the mechanism of evolution.

In the years leading up to the key research of Muller on X-ray induced mutations he had made it clear that finding a means to induce mutation at the level of gene would be a profound advance as it may provide a mechanism that could drive evolution [8, 14]. Muller was dismissive of multiple claims of induced mutation during the early 1920s that were mediated at the level of chromosome rather than gene. Muller was firm that unless the induced changes occurred at the level of gene their significance would be very limited, not a qualitative advance. Altenburg was forcing Muller to be as self-critical as he was critical of numerous previously failed attempts by others to address the same issue.

Muller's [19] ground breaking report on July 22, 1927 in the journal *Science* that he had induced hundreds of gene mutations by X-rays was based upon the production of allomorphic (i.e. visual) transgenerational phenotypic changes and lethality. He made this gene mutation claim/interpretation in an article that discussed his findings, but failed to include any data. The scientific community would have to wait until the second week of September that year at the International Genetics Congress for Muller to present the actual findings [20].

A review of his Nobel Prize data notebook (Muller, Lilly Library, University of Indiana-Bloomington) reveals that findings were derived from three experiments with the second experiment being wrapped up with respect to data collection in the laboratory at the end of May, 1927. The dates of the third experiment were not recorded in the lab notebook although Muller [22] indicated that he ran out of time to include a control group, probably in order to prepare for and travel to the Genetics Congress. The data discussed in *Science* matches most closely to that reported in experiment # 1 that was completed in the laboratory in December, 1926.

While it is unknown when Altenburg precisely offered his criticism to Muller, the actions of Muller to introduce a profound advance on one of the most significant questions confronting biology in the journal *Science* without any proof was very brash under any circumstances. Permitting this to occur was also similarly flamboyant for the editor, James McKeen Cattell. A careful evaluation of the entire preserved correspondence record of Cattell, as an individual and *Science* editor did not reveal the arrangement between him and Muller. Likewise, this is the case following a careful review of the Muller correspondence files.

That Muller had the personality to manipulate the scientific community and the general public can be seen in this Nobel Prize Lecture (December 12, 1946) where he deliberately deceived the audience arguing that there was no possibility of a threshold dose response for radiation induced mutations when he had just observed data supporting such a conclusion from Caspari and Stern from the University of Rochester, one month prior to the Nobel Prize Lecture [4, 5]. Muller offered this deception to promote his long held ideology in support of a linear non-threshold dose response for mutation and cancer risks. Muller [24, 25] would also deliberately offer inaccurate and deceptive comments in the scientific literature to promote linear non threshold (LNT), expressly contradicting private correspondence between himself and Stern [6]. Such high stakes risk taking and bluffing behavior of Muller surfaced two decades prior to his Nobel Prize Lecture, when he published a description of these findings without data, knowing that he lacked proof for his key gene mutation conclusion. Muller had the chance to submit this most significant research for peer review but choose not to do so. As pointed out, the conference proceedings paper with the data lacked a methods section, provided no references cited and even failed to acknowledge the prior recent paper (January, 1927) by Gager and Blakeslee [15] which provided what appears to be the first evidence of radiation induced gene mutation. Until this point in his career, Muller published his papers within journals with a well-established peer review record as he was guided into this scientific acculturation by his Columbia University mentor, Thomas Hunt Morgan. Yet, for the paper of greatest significance he bizarrely published a discussion

of preliminary findings with no data and then avoided peer review with a poorly developed paper in the Congress proceedings [12].

It is likely that Muller was both devastated by the criticism of Altenburg and could not find any way to address it, at least not in the short term. Yet, he knew he was in a race to be first, even if Gager and Bakeslee may have some claim to the honor he could handle them with a series of Muller-like blistering challenges. It appears that Muller rolled the proverbial dice, ignored, at least for the time being, the criticisms of Altenburg, and went on to claim his "unequivocal" belief in having produced "gene" mutations, all the while knowing that he had not proven it. This was similar to his deceptive performance at the Nobel Prize Lecture, showing the same risk taking behavioral trait. Muller had confidence that his duplicity would not be revealed by those that knew of his scamming behaviors, such as Stern and Caspari and perhaps a few others at the University of Rochester for the Nobel Prize Lecture, and Altenburg for his Nobel Prize research.

Muller would find a means to address the criticism of Altenburg but it would take several years. He adopted the concept of reverse mutation and thought that it could provide indirect, but functional proof that his treatments would yield genes that would still be working and therefore not destroyed by the high doses of radiation via massive deletions. However, it is curious to note that Muller mentioned that he had not observed any reverse mutations in the *Science* paper. Thus, in his own experimental model and methods of mutation induction he had not observed the reverse mutation phenomenon. However, in the fall of 1927 he claimed to have observed two examples [18, 23] and then in early 1928 his colleague at Texas James Patterson found evidence of a third example [22]. These very limited observations offered Muller a glimmer of hope to perhaps address the criticism of Altenburg, but only time and experimental evidence would tell. Thus, even a year after the publication in *Science* Muller had no proof that he had induced gene mutation and was now going to try to support this interpretation via a collaboration with Patterson. At the December, 1927 [18] American Association for the Advancement of Science (AAAS) Conference in Nashville Muller provided the a glimpse into the emerging importance of the reverse mutation concept as he stated that the newly observed two reverse mutations should provide more information on gene structure than "gene" loses and be more significant in the study of evolution, the central theme of biology. In fact, the argument to support the claim of gene mutation would morph into that of reverse mutation [28].

This discussion provides context and a plausible explanation for why Muller deliberately avoided peer review. A case can be made that he accepted the validity of Altenburg's concerns. This would have suggested to him that there was the possibility/probability of this paper being rejected. Muller was caught in an ethical dilemma: he could address the criticisms of Altenburg or finesse his manuscripts and presentations to avoid possible devastating critical reviews while accepting the uncritical acclaim of the scientific and world communities who were overwhelmed and transformed with his capacity to produce transgenerational phenotypic changes; this same community then accepted his gene mutation interpretation based largely on an appeal to authority.

In a September 1928 publication (based on an April 15, 1928 presentation at the National Academy of Sciences) in the Proceedings of the National Academy of Sciences (PNAS) Muller acknowledged the criticisms of Altenburg [22]. He also indicated that Patterson had found an example of a reverse mutation. Muller then stated that he was now going to follow up on the suggestion of his wife, a mathematician, to address the Altenburg criticism via the study of reverse mutation. At this point Muller was seemingly aware of only three cases of what might be X-ray induced reverse mutation in the PNAS paper. It is also curious that Muller never acknowledged the two examples of reverse mutation that he referenced in the AAAS presentation nine months earlier.

Nearly three years after the Altenburg criticism Patterson and Muller [28] would provide support for the gene mutation interpretation using the reverse gene mutation. On page 574 they concluded that "the above (reverse mutations) demonstrates that mutations can be produced in both of two opposite directions at the same locus." They further claimed that these findings were "irreconcilable with the view that all mutational changes by X-rays consist of losses."

In retrospect the original "proof" of gene mutation using alleomorphic phenotypic changes-as both an observation and explanation-was not convincing to Muller following the Altenburg criticism. Thus, overtime Muller came to use the reverse mutation observations as the means to explain the induced transgenerational phenotypic changes. In some ways, this was a type of scientific bait and switch process that was nearly unrecognizable, yet critically important over the issue of gene mutation discovery. Nonetheless, the scientific community was mesmerized by the findings and publicity of Muller to such an extent that it quickly and uncritically came to believe that Muller had produced gene mutations based on an interpretation lacking scientific justification.

While Muller may have thought that the reverse mutation findings may have salvaged the gene mutation interpretation, even though three years too late, it too would be challenged very seriously by another thoughtful equal peer of Muller, the corn geneticist Lewis Stadler at the University of Missouri. In fact, Stadler [31] had been

only a few months behind Muller in the reporting of X-ray induced mutations. While Stadler at first accepted the gene mutation interpretation of Muller this would change some four years later.

In 1929 Barbara McClintock [16] developed a vastly improved cytogenetic method for assessing the characteristics and appearance of chromosomes of corn. At that time this technique was far more advanced than had been developed for Drosophila [8]. In 1931 [17], McClintock provided a cytogenetic evaluation of X-ray induced mutations in corn under the direction of Stadler. He had observed transgenerational phenotypic changes similar to those produced by Muller with Drosophila. However, McClintock's advanced cytogenetic methods revealed that the so called "gene" mutations that Stadler believed he had produced were most likely gross chromosomal deletions. Thus, McClintock concluded that the doses of X-rays used by Stadler were simply punching holes in the chromosomes and that he had not induced gene mutations as he had thought. After some deliberation, Stadler [32, 33] came to accept the new insights of McClintock and soon came to question whether this was also the case with Muller's gene mutations as first suggested by Altenburg. While Muller claimed that the X-ray induced reverse mutation explanation addressed the question, this position was not convincing to Stadler [34] and others (see [8] for a review) who offered a series of experimentally based alternative explanations (e.g. position effect, transpositional elemental effects) for Muller's reverse mutation phenotype findings without the need for gene mutation).

Overlooked in this debate was the dissertation of Clarence P. Oliver, Muller's student at the University of Texas. In his dissertation (i.e., Conclusion #10) [26] and in his journal publication (i.e., Conclusion #11) [27], Oliver stated "It is not possible to produce gene mutations without producing gene rearrangement, or vice versa". This statement undercuts Muller's conclusion that he produced "point mutations" at doses far higher than those used by Oliver [26]. Given this contradictory statement, it is curious that Muller approved this dissertation since this statement was very Stadler-like.

While most in the scientific community seemed to believe that Muller had induced gene mutation, Muller and Stadler would contest this point until Stadler died in 1954 with neither side conclusively winning this debate although the preponderance of the evidence favored Stadler [34]. In the end, Stadler adopted the perspective of Altenburg that Muller mistook an observation (i.e. transgenerational phenotypic changes) for an explanation (i.e., gene mutation). However, once nucleotide analysis methods were developed, he was shown to have achieved his transgenerational phenotypic changes via the "punching of holes" in chromosomes via modest to extraordinarily large deletions rather than via point mutations [8–11].

Discussion

The actions of Muller and their effects on other key figures are worth exploring for their historical and ethical considerations. In the case of Muller, we find the tactic of publishing on a transformative topic such as gene mutation without providing data as self-serving and not abiding by the generally accepted culture of scientific responsibility of successfully passing a responsible peer review. This failure was also coupled with his acceptance of worldwide acclaim and hoped for professional job offers (see letter to Carl Hartman, October 28, 1927 [21]). Thus, Muller was masterful in manipulating the scientific community without his manipulation being exposed.

In the case of Cattell, he was a close friend of TH Morgan, both being long time professors at Columbia University [1]. It is likely that Muller used their past Columbia association to approach Cattell. At that time Cattell personally owned the journal *Science* and may have sought to profit from the likely intense positive publicity. Thus, in some ways Muller and Cattell exploited each other for personal profit at the expense of society. Approximately two decades later Cattell would transfer ownership of *Science* to the AAAS [30].

In the case of Altenburg, he appears as a loyal friend and would remain so until both he and Muller died in the same year (1967), a few months apart. Their relationship was unique as seen when Muller attempted suicide in 1932. His suicide note was directed to Altenburg rather than his family [14]. Thus, for Altenburg loyalty to a close friend may have overwhelmed his responsibility to science and the broader community. It is both interesting and ironic that Altenburg [2] would eventually publicly side with the Stadler-McClinctock perspective that the high doses of radiation were mediating Muller's mutations most likely via McClintock's inducible transpositional element (i.e. the basis of her own Nobel Prize in 1981). Furthermore, Ratner et al. [29] confirmed this perspective later in studies closely replicating Muller's experiments.

Conclusion

The Muller story is a troubling one of excessive and unbridled ambition, self-serving manipulation, high risk behavior and an enabling authority (i.e. *Science* editor Cattell) and a very loyal/protective friend (i.e. Altenburg) along with a scientific community that failed to demand accountability and a Nobel Prize committee that inadequately evaluated Muller's findings. The implications of such actions are profound since it has been Muller's incorrect gene mutation interpretation and its legacy that created the LNT dose response model, leading to its recommendation by the US National Academy of Sciences in 1956 [3] and then subsequently adopted by all regulatory programs throughout the world. Thus, Muller's

many significant deceptions facilitated a long, continuing and influential reach with a profound impact on society which continues to the present without any action, acknowledgment or change by the scientific community and government regulatory agencies.

The recent detailed historical assessment [6–8] and the last two vignettes (this paper and [12]), document significant new scientific and ethical insights into the career of Hermann Muller and this era. The set of papers reveal Muller to be an inspiring and principled leader while, at other times, he appears as a person with distorted self-serving interests, highly ideological and partisan, and with little evidence of a moral compass, all the while being very self-righteous, within the context of a very intelligent, unrelenting, aggressive and at times disagreeable manner. This combination can be a dangerous personal and societal cocktail, making him capable of achieving much and often at the expense of many. Despite the documented limitations and flaws of Muller, the most significant criticisms and concern should be directed to the scientific and regulatory communities, such as the US Environmental Protection Agency, that have uncritically adopted and sustained Muller's findings as the foundation for cancer risk assessment and permitted this process to be corrupted by dominating ideological perspectives, failing in their congressionally mandated societal leadership.

Abbreviations
AAAS: American Association for the Advancement of Science; LNT: Linear non Threshold; PNAS: Proceedings of the National Academy of Sciences

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Author's contribution
EJC conceived, researched, and wrote this contribution by himself. The author read and approved the final manuscript.

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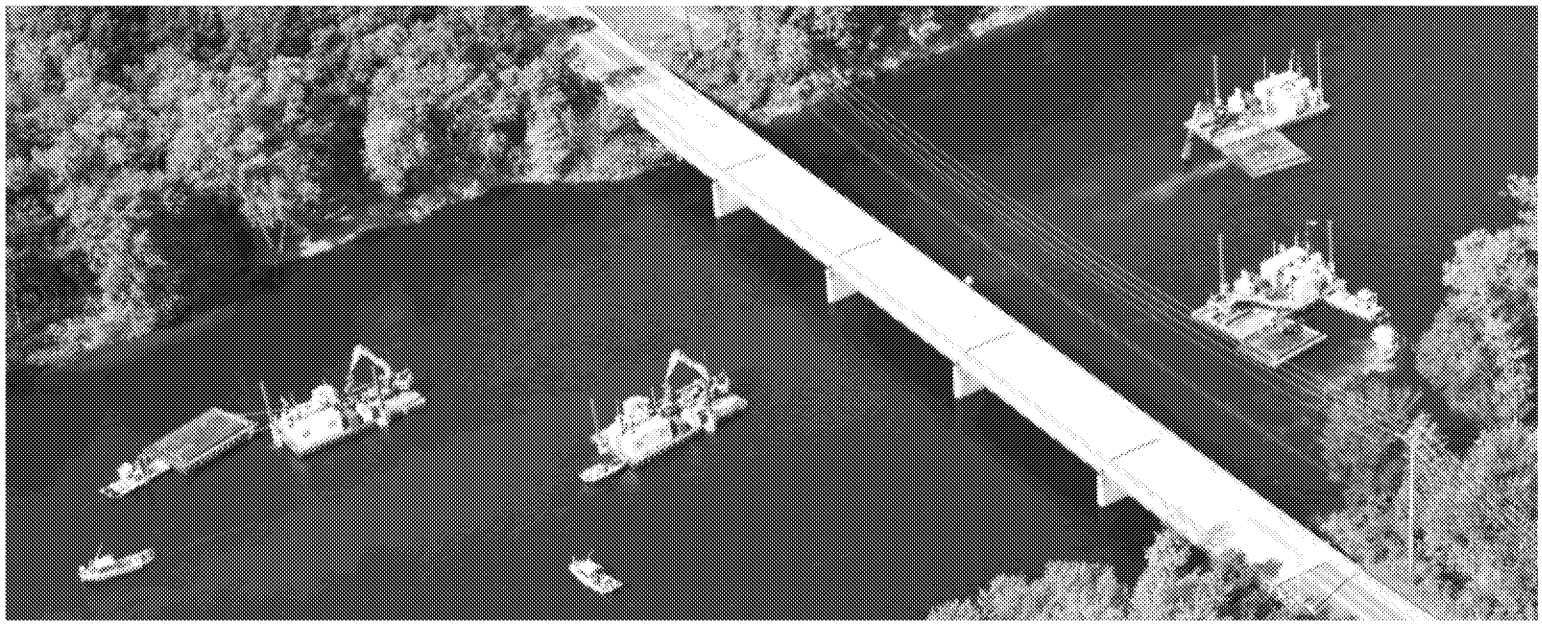
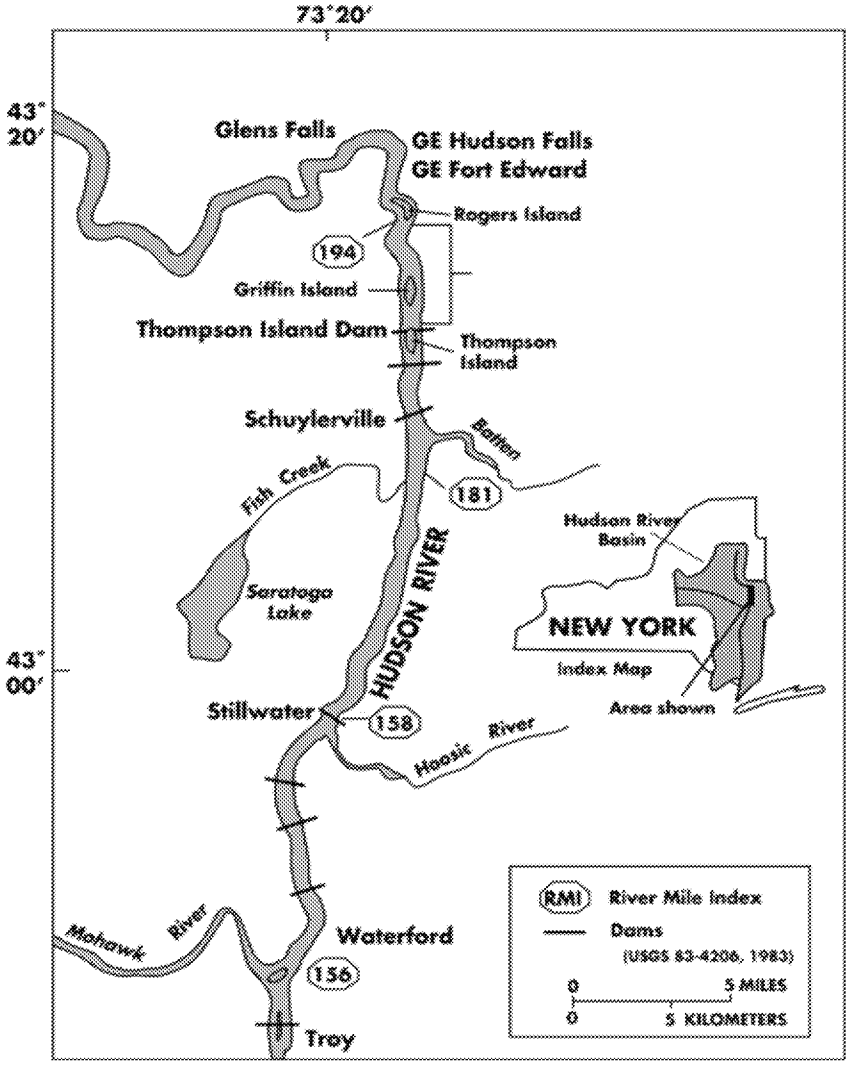


Hudson River Update

October 2018

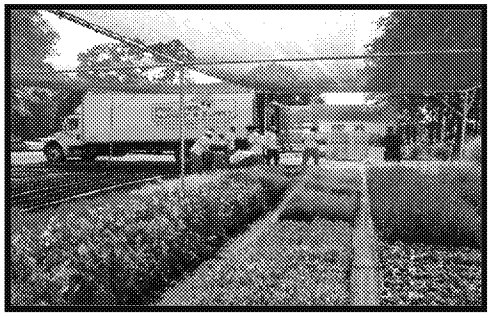
ED_002480_00057716-00001

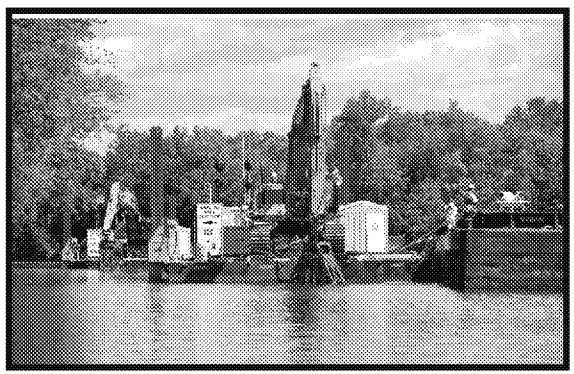
Upper Hudson River



Hudson Dredging by the Numbers

- 6 years; 7 months/year; 24/7 ops
- $1.7 BB to date
- $110 MM payment of EPA costs
- 120 acre, $120 MM processing facility
- 2,760,000 cubic yards removed
- 450,000 cubic yards -- Nav. Channel
- 310,000 lbs PCB removed (2x plan)
- 3,080,000 tons disposed
- 487 acres of river bottom dredged
- 500+ dedicate rail cars; 343 “unit” trains
- 4,800 barge loads; 23,000 lockages
- 2 billion gallons of water treated
- 1.4 million plants; 18.4 acres seeded
- 15,000 water and 4,000 air samples





PCB Mass Removed/Remaining

River Section	ROD Estimates			GE Estimates		
	Mass Remediated	Non-dredge Mass	% Removed	Mass Removed	Mass Remaining	% Removed
1	36,000	9,200	80	84,360	3,940 – 3,990	95-96
2	24,300	3,200	86	32,890	5,110 – 5,280	86
3	9,500	24,300	26	29,690	29,390 – 32,540	47-50
Total	**69,800**	**37,500**	**65**	**149,800**	**38,440 – 41,810**	**78-79**

- **Dredging option was expected to remove 65% of the PCBs**
- **Dredging removed 2x the PCB mass expected: nearly 80%**
- **PCB mass remaining is consistent with expectations**

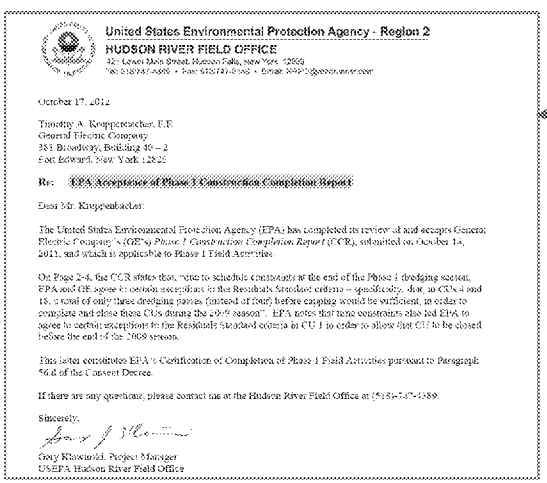
Certification of Completion (COC) under CD

- § 57.b – GE "shall submit to EPA, for review and approval, a Remedial Action Report . . . request[ing] EPA's Certification of Completion of the Remedial Action"
- § 57.d – "If EPA concludes . . . that the Remedial Action has been performed in accordance with this Consent Decree, EPA *will* so certify in writing"
- § 57.e – "EPA *will* respond to such request [for Certification] no later than 365 days after EPA's receipt of the request" (Due to GE January 4, 2018)

Certification of Completion (CoC) under CD

GE has performed *all* the required work and EPA has approved *all* of the components, triggering mandatory duty to issue certification under CD:

- ✓ Design: All designs (where to dredge, how to dredge, how to handle sediments etc.) reviewed and where required modified to meet EPA requirements.
- ✓ Implementation: EPA signoff on all 100 certification units (300 approvals total for dredging, backfilling, habitat restoration); Constant oversight by EPA/NYDEC.
- ✓ Decommissioning: EPA approved removal of $120 MM processing facility; property decontaminated; returned to owners with most infrastructure intact
- ✓ Phase 1 CoC approval: EPA approved Phase 1 CoC (18 CUs) as required by CD; no distinction with Phase 2 criteria.



United States Environmental Protection Agency - Region 2
HUDSON RIVER FIELD OFFICE
42 Green Mills Street, Hudson Falls, New York 12839

October 17, 2012

Timothy A. Kruppenbacher, P.E.
General Electric Company
384 Broadway, Building 40 – 2
Fort Edward, New York 12828

Re: EPA Acceptance of Phase 1 Construction Completion Report

Dear Mr. Kruppenbacher:

The United States Environmental Protection Agency (EPA) has completed its review of and accepts General Electric Company's (GE's) *Phase 1 Construction Completion Report* (CCR), submitted on October 14, 2011, and which is applicable to Phase 1 Field Activities.

On Page 2-4, the CCR states that, "due to schedule constraints at the end of the Phase 1 dredging season, EPA and GE agree to certain exceptions to the Residuals Standard criteria – specifically, that, in CUs 4 and 18, a total of only three dredging passes (instead of four) before capping would be sufficient, in order to complete and close these CUs during the 2009 season". EPA notes that these constraints also led EPA to agree to certain exceptions to the Residuals Standard criteria in CU 1 in order to allow that CU to be closed before the end of the 2009 season.

This letter constitutes EPA's Certification of Completion of Phase 1 Field Activities pursuant to Paragraph 56.d of the Consent Decree.

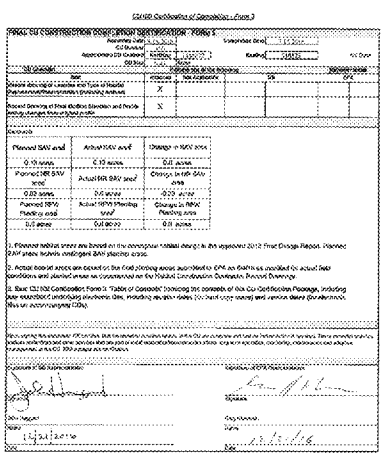
If there are any questions, please contact me at the Hudson River Field Office at (518)-747-4389.

Sincerely,

Gary Klonowski, Project Manager
USEPA Hudson River Field Office

Phase I EPA completion report approval (met CD deadline)

Last of 300 EPA certification forms approved



Results of NYDEC's Sediment Sampling*

River Section	Surface Sediment Tri+ PCB Criteria (mg/kg)	Number of Locations Collected by NYDEC	Number of Locations Exceeding Criteria
1	10	194	2
2	30	169	1
3	30	774	0
Total		**1137**	**3 (0.2%)**

***NYDEC data recently made available – no data documentation**

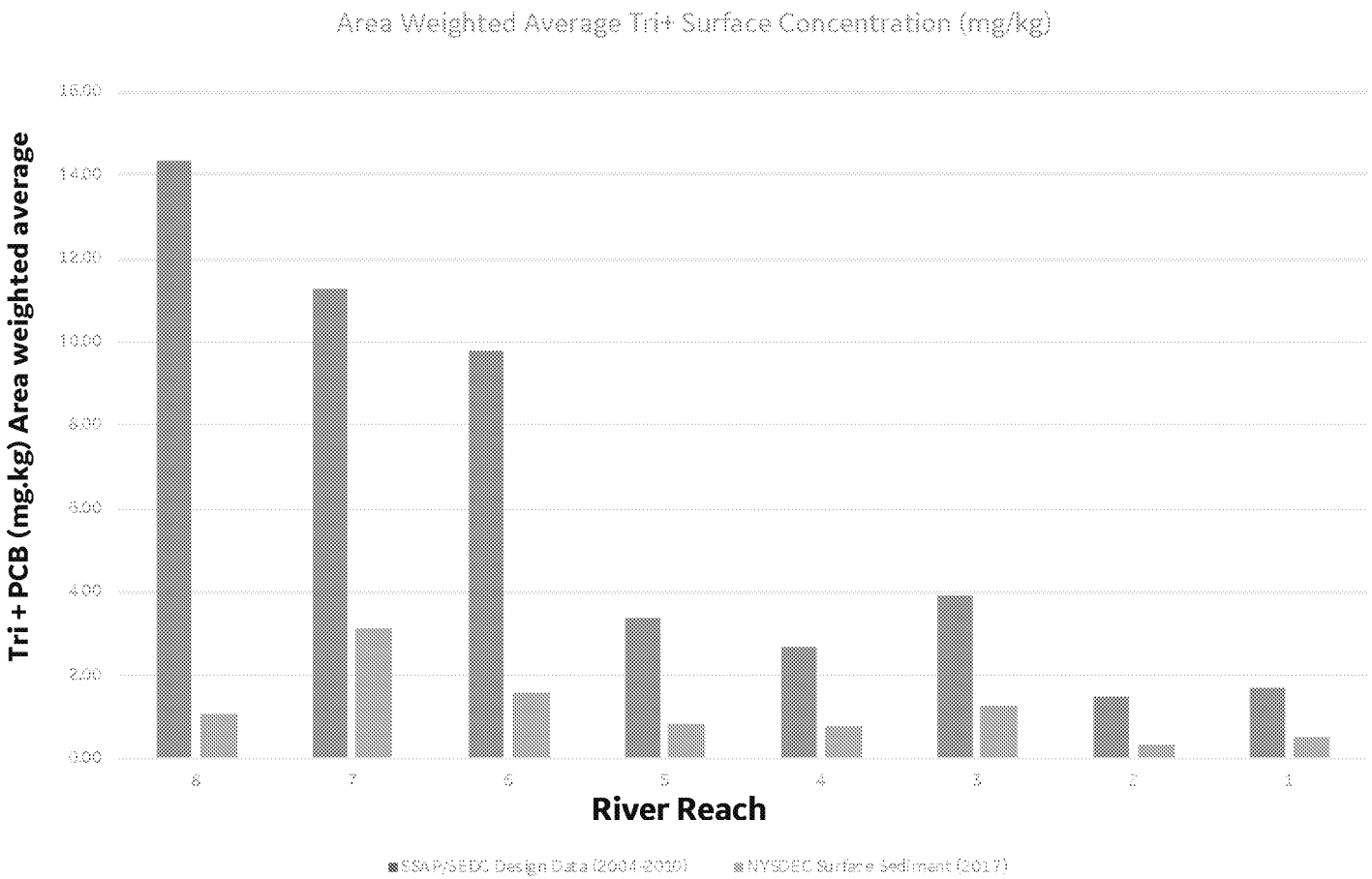
PCB Declines in Sediments

	Tri+ PCB Surface Concentration (mg/kg)		% Decline	
River Section	SSAP Average (EPA's First Five Year Review)	Average NYDEC 2017 Data	Measured (Using NYSEC sediment data)	ROD Predicted (EPA's First Five Year Review)
1	14.2	1.1	**92%**	**79%**
2	11	2.1	**81%**	**64%**
3	3.3	0.7	**79%**	**4.4%**

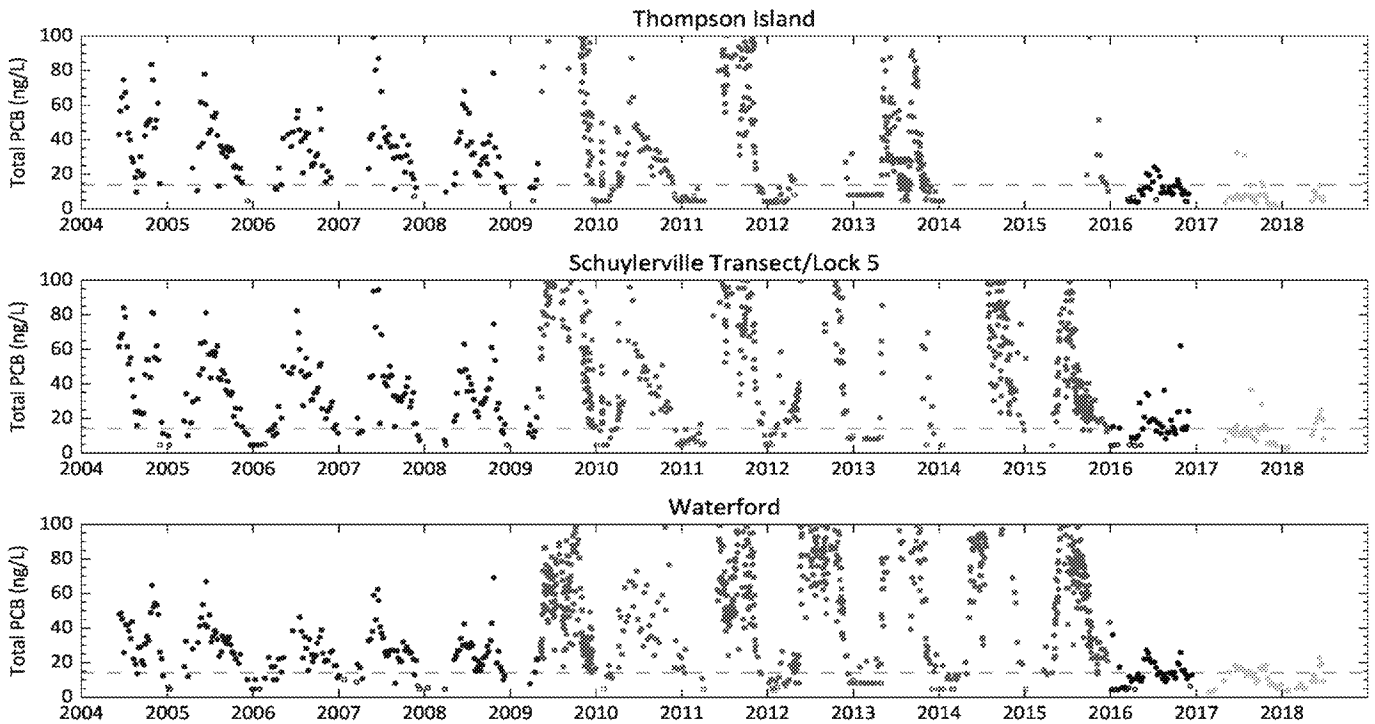
DEC's sediment data show PCB declines exceed ROD predictions

***NYDEC data recently made available; analysis is preliminary**

Surface Sediment: Pre- and Post-Dredging



PCB Water Data



Notes: PCB data collected during high flow excluded from routine plots. High flow criteria: daily average Ford Edward flow >= 10,000 cfs (for stations upstream of Waterford) and daily average Waterford flow >= 15,000 cfs (for Waterford station). PCB peak correction applied between May 2009 and April 2011 (method NE207_03) in accordance with the 2009 QAPP (Anchor QEA et al. 2009). Non-detect PCB samples plotted at half MDL as open symbols. PCB concentrations above the display range excluded.

● BMP ● RAMP (dredge) ● RAMP (post-dredge, mGBM) ● RAMP (post-dredge, 1668C) — Criterion Continuous Concentration (Federal Water Quality Criteria for Fresh Water)

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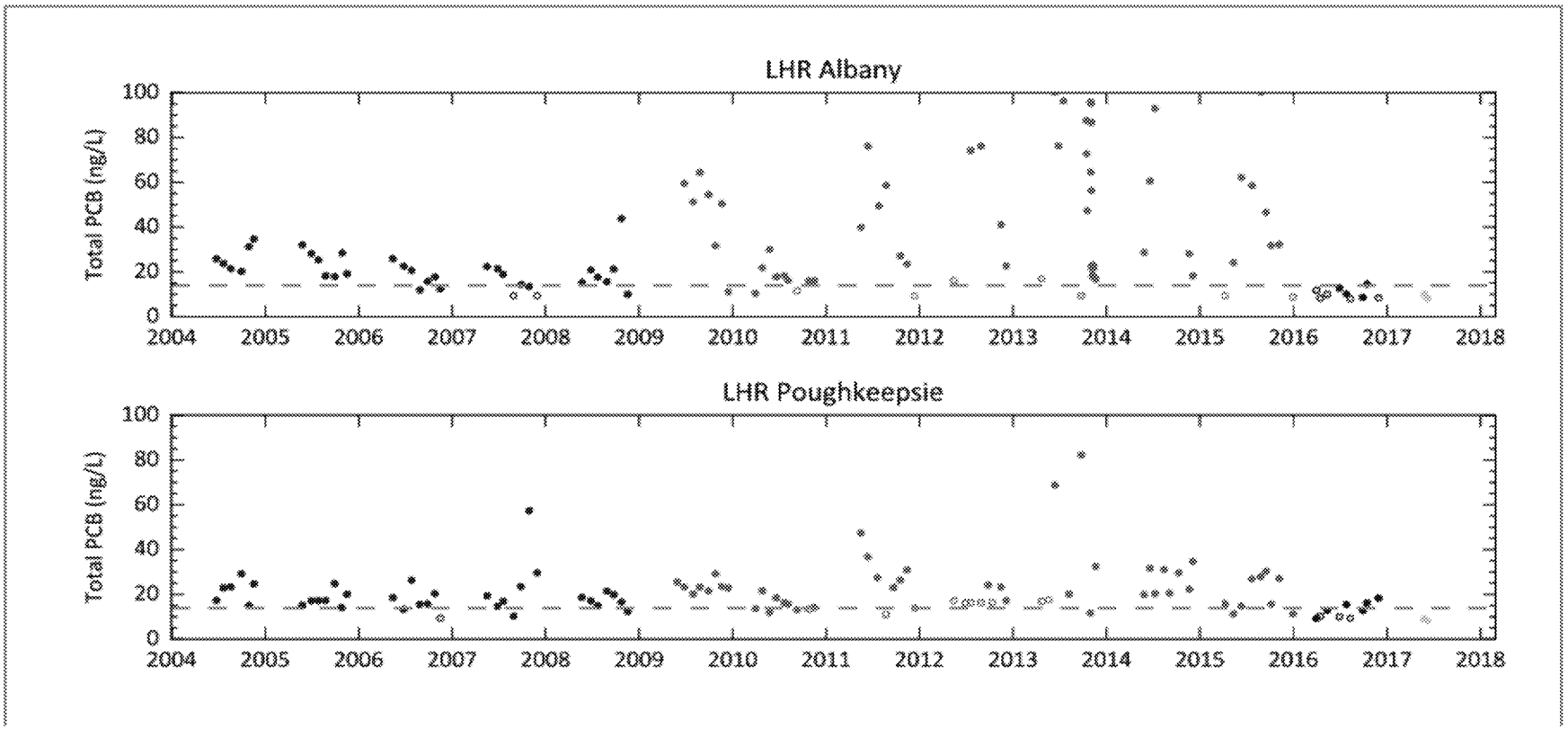
PCBs in Water – Lower River

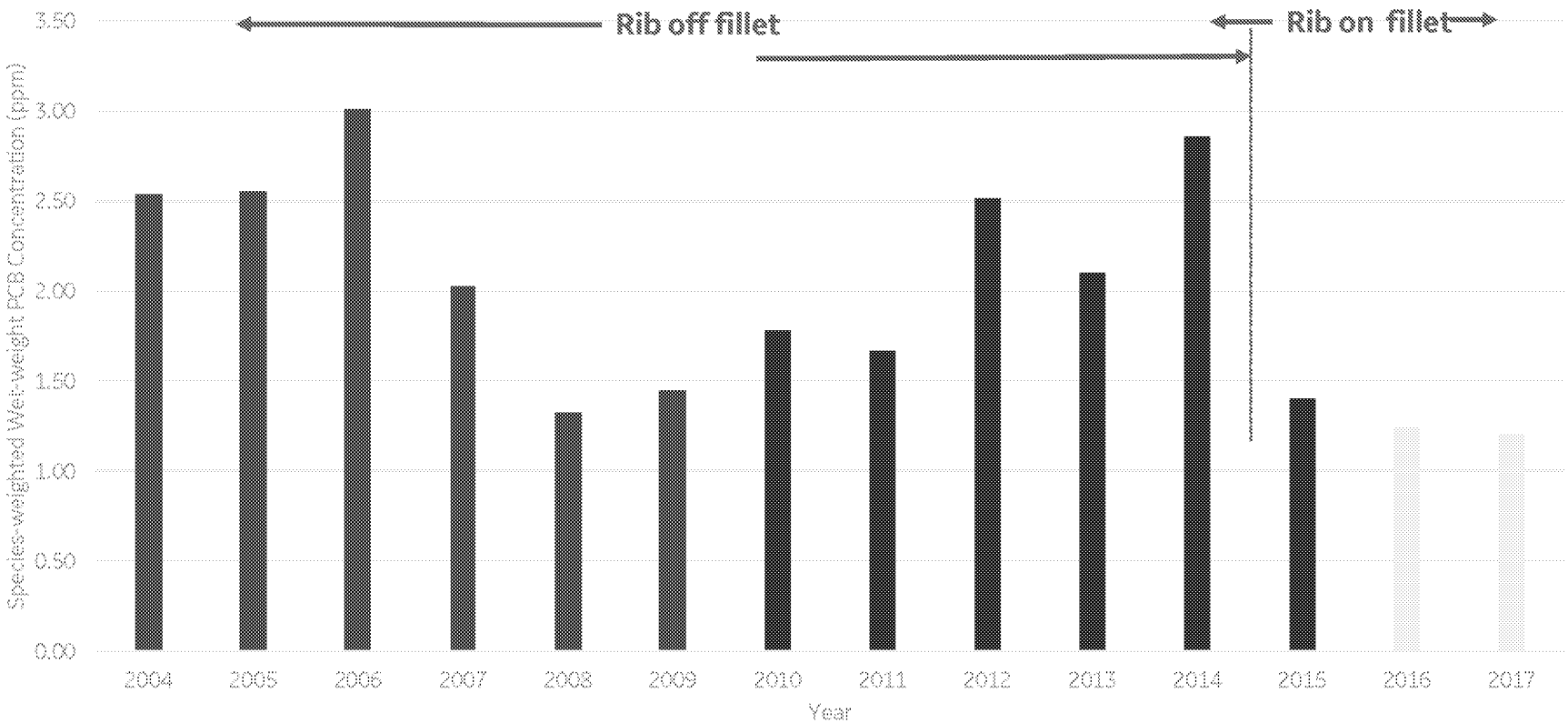


Notes: High flow data excluded from analysis. Non-detect PCB samples plotted at MDL as open symbols.
PCB peak correction applied between May 2009 and April 2011 (method NE207_03) in accordance with the 2009 QAPP (Anchor QEA et al. 2009).
Black solid line represents monthly average.

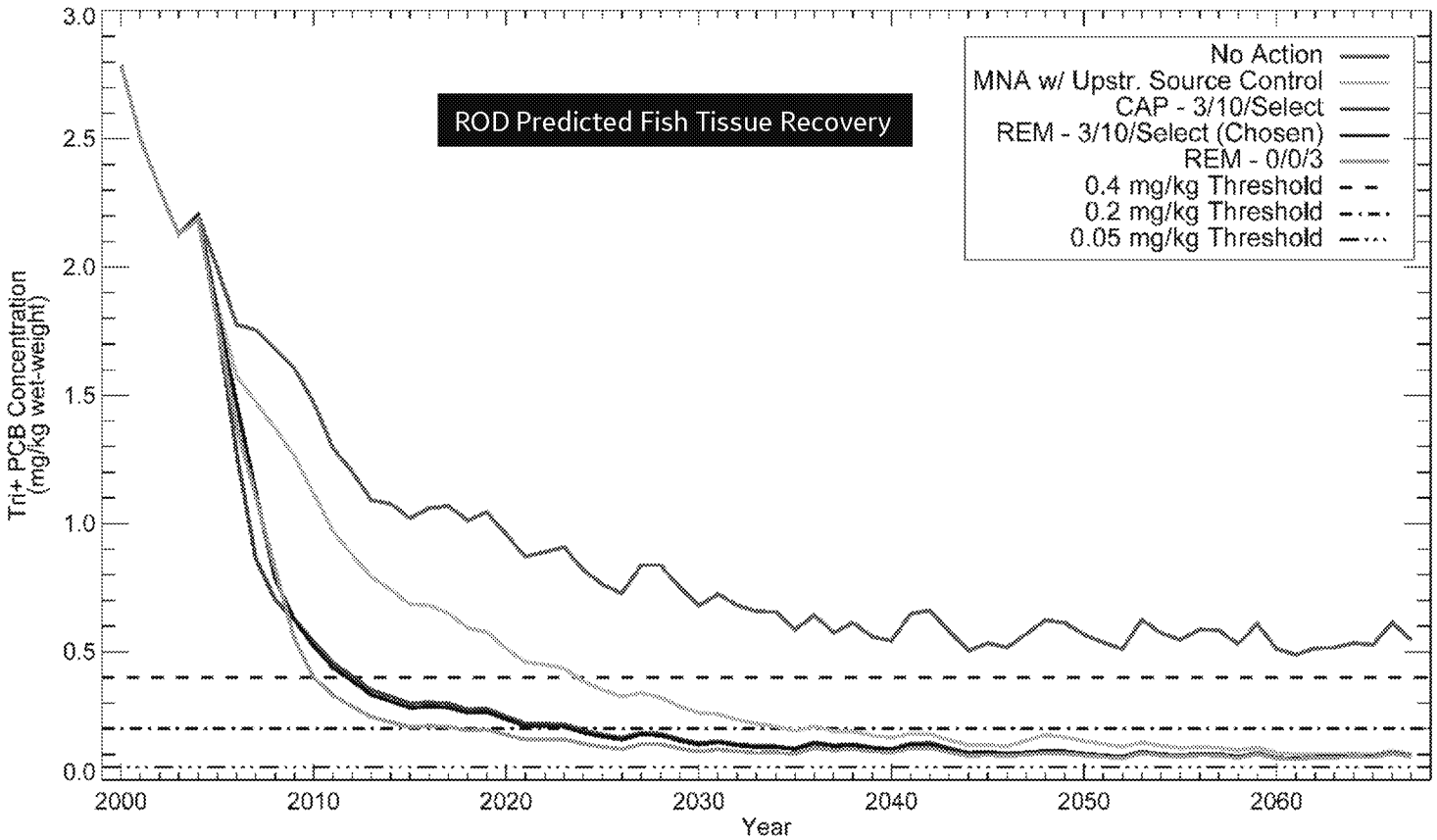
BMP | RAMP (dredge) | RAMP (post-dredge, mGBM) | RAMP (post-dredge, 1668C) | Criterion Continuous Concentration (Federal Water Quality Criteria for Fresh Water)

PCB Fish Levels: Upper Hudson River

Species-weighted Average



EPA Options Evaluation



Model Simulations: Remedy start and duration different than actual; assumed river flows, temperatures, etc.

EPA Considered Impacts of Additional Dredging

- De minimis benefits

  "...the predicted difference in fish tissue concentrations between REM-0/0/3 and REM-3/10/Select, and correspondingly, the difference in risk, is small." ROD p. 102

- Habitat and community disruption

  "For the Upper Hudson as a whole, the model forecasts showed a disproportionately smaller improvement in recovery of the river when compared to the far greater area of disturbance for the REM-0/0/3 Alternative as compared to the selected remedy." RS, p. 4-8

- Disproportionate costs

  "EPA has determined that the incremental risk reduction achieved under the more aggressive alternative, REM-0/0/3, does not justify the additional $110 million present worth cost of that alternative." RS, p. 4-8

Message

From: Erdos & Morgan [invite@erdossurvey.com]
Sent: 10/18/2018 3:02:44 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: 2018 Opinion Leader Survey

Erdos & Morgan

Dear Mr. Jackson:

Recently we sent you an e-mail inviting you to participate in a Nationwide Survey of Opinion Leaders.

If you already replied, we thank you. If you haven't had the time to reply, please consider this another request to participate.

You have been identified as part of an elite group in this country, influencing public policy discussion for a nation faced with many diverse and complex challenges. Because of your position and accomplishments, it is undeniable that the issues which you devote your time and effort to are highly significant. The select group, of which you are a part, comes from all walks of life: Government, Business, the Arts, Sciences and Academia. The issues which should be in the forefront of the nation's agenda vary in degree and importance, in part, because of your perspective.

With this in mind, we ask for your participation in this survey. This will help establish which policy issues you judge should head America's agenda today. For over thirty years Erdos & Morgan has conducted this survey. The results are monitored closely because the priorities you set impact policy decision affecting the future.

In addition to including important issues of the day, this survey also measures the media, which you more than likely may use to gain further knowledge of public issues.

We realize your time is valuable and that you might consider this somewhat tedious. However, for your convenience, we've grouped the issues by subject matter, thereby making your participation relatively effortless.

Given your position, your response is of great significance. While your individual answers will remain strictly confidential, they will be used in combination with others in your peer group to make your views known.

To take our survey, please **click here**.

We appreciate your assistance and we thank you in advance for your cooperation.

Sincerely,

Jason Gorelkin
CEO

P.S. As a small token of our appreciation, we will make a $10.00 donation to one of the charities listed at the end of the questionnaire. Please indicate your choice of charity.

Erdos & Morgan | 485 Underhill Blvd, Ste 200 | Syosset, NY 11791

If you no longer wish to receive these emails, you may unsubscribe by clicking here.

Message

From: Jim Xu [info@armanpakhsh.ir]
Sent: 10/15/2018 11:53:59 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Quote for new Order

Dear Gm,

We have previously sent a scope of our company demand/inquiries, did you receive it? As a reminder without fail, find attached details.

Your prompt response is expected today without fail

Thanks & Best Regards

Jim Xu

Formulator Business Manager

TONICHI KENKI CO., LTD IN
127-1 Nanaei, Tomisato-shi, Chiba, 286-0221, HK

Message

From: Amy Harder [amy@axios.com]
Sent: 10/22/2018 9:14:27 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: In Washington state, a test of progressive climate policy

In Washington state, a test of progressive climate policy

View this email in your browser

Good morning all,

My latest Harder Line column is on the Washington start carbon fee ballot

initiative, and it's copied below.

Also, I'm excited to share that Axios on HBO, a limited series, launches next month. To get a sneak peek at the Smart Brevity format used in the series -- including some energy/climate focus -- sign up to one of our 15 newsletters -- including Generate that features my regular column: http://axios.link/6Nxi

Cheers,

Amy

In Washington state, a test of progressive climate policy

OLYMPIA, Wash. — The political landscape is ripe for this progressive state to approve a carbon price after a decade of failed attempts, fueled by disgruntlement with President Trump and a uniquely broad coalition.

Why it matters: If voters approve a ballot initiative this November imposing a fee on carbon dioxide emissions, it would reinvigorate liberal leaders despondent over Trump's anti-climate change policies. If the measure fails, it'll reinforce a prevailing notion that carbon prices are politically unpopular.

"If we are going to move toward more state-driven climate policies, the question of whether a state could adopt a carbon price is pretty significant."
Barry Rabe, University of Michigan professor

The big picture: Putting a price on carbon emissions is considered an essential piece of addressing climate change, but it also makes energy products that run our lives more expensive — most notably prices at the pump.

Flashback: Two years ago, Washington voters rejected a similar ballot initiative that had more support among conservatives. A lot has changed since 2016, so

there are signs that this year's proposal has a higher chance of passing, despite deep uncertainties about the policy and a more aggressive opposition than last time.

Trump

Washington Gov. Jay Inslee, a Democrat flirting with a 2020 presidential run, says a vote against the proposal is a vote for Trump's anti-climate change positions. That's a leap in logic, but it could be effective messaging to discontented voters in the mostly blue state of Washington.

"Let me tell you, if you're voting against the [ballot] initiative, you're going to be voting with Donald Trump, who is a climate denier," Inslee told me in an interview at the governor's mansion in Olympia last month.

Broad coalition

Organizers of the proposal have convened a coalition larger and more progressive than the last effort. Backers include billionaire Microsoft co-founder Bill Gates and an array of environmental groups.

The money raised from the carbon fee — technically it's not a tax — would fund clean-energy investments and other causes (clean energy would get 70%). That's a more progressive policy than the 2016 initiative that lowered other taxes.

Clean-energy investments would drive most of the emission reductions because the fee is too low to change consumer behavior on its own, said Inslee, who has been fundraising for the proposal on his personal time.

- The price begins at $15 a ton in 2020 and rises $2 each year for the next 15 years.

- The policy's goal is to cut greenhouse gas emissions by 20 million tons — about 25% — by 2035.
- Backers of the proposal estimate the policy would add at most $10 a month in costs to the average family.
- Opponents estimate the monthly cost closer to $440 a year (about $37 a month).

Moneyed opposition

Washington is America's fifth-largest refining state, so it's not surprising opposition is coming largely from petroleum companies. The industry was mostly neutral on the 2016 proposal, reflecting that measure's more conservative and industry-friendly cred.

- Led by Phillips 66, BP and Andeavor, this year's opposition campaign has raised more than $20 million.
- Organizers have raised more than $10 million, far more than last time.
- The current grand total has some observers predicting it will be Washington state's most expensive ballot initiative.

Support has dropped as the opposition campaign has ramped up. In July, backers of the carbon fee found 63% support with their own private polling, according to those involved. As of early October, that was down to 50%, according to public polling.

The companies' main reasons for opposing it now are that it exempts several other sectors, such as aluminum manufacturers and a cement plant. The state considers them vulnerable to losing business to other countries if they face higher energy costs. Another reason is the uncertainty about how to spend the money.

Policy uncertainty

The proposal doesn't get into details about how the money would be spent other than dividing it into general categories. The policy authors say those

details will be filled in upon passage. Experts worry it could lead to unintended consequences, political favoritism and/or no actual emission reductions.

- "You certainly want to avoid a situation where the money is being spent for political reasons," said Noah Kaufman, an economist at Columbia University who recently reviewed the proposal.
- The vagueness surrounding the revenue is the top reason Cliff Mass, an atmospheric sciences professor at the University of Washington well known throughout the state, is opposed to the measure.
- Accountability on the funding was also why The Seattle Times recommended a no vote on the proposal over the weekend.

What's next: If it passes, expect other states to replicate it, says Rabe, the University of Michigan professor. If it doesn't pass, Inslee says he'll keep fighting — in the state legislature and at the ballot box. He might even pursue it from the White House, if he follows through with a 2020 run.

The bottom line: "I don't think failure to pass is necessarily the kiss of death for other states or nationally," Rabe says. "But, it would further underscore the political difficulty of doing this."

Amy
energy reporter, Axios
202.906.9629
@AmyAHarder

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mailchimp

Message

From: sreece@depausa.org [sreece@depausa.org]
Sent: 10/18/2018 3:44:29 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING

Good morning Mr. Jackson,
Would 8:40AM be an okay time for you? We begin our meeting at 8:30AM. You will be introduced, then speak. How long do you plan to address our group? We don't have a preference on time. We're happy to accommodate your preference.

I look forward to hearing back from you,
Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Wednesday, October 17, 2018 6:24 AM
To: sreece@depausa.org
Subject: Re: NOV. 4 & 5: DEPA FALL MEETING

Sarah, what time on November 5 would be most convenient?

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 11, 2018, at 12:41 PM, "sreece@depausa.org" <sreece@depausa.org> wrote:

> Dear Mr. Jackson,
>
> The Domestic Energy Producers Alliance (DEPA) invites you to join us for our Fall Board Meeting on November 4th and 5th.

We are hosting the top 50 leaders from the domestic oil and gas industry—who represent 31 independent organizations—at the Brown Palace in Denver, CO. Please find the event schedule below.

Sunday, November 4th

2:05 PM Broncos vs. Texans game at the Sports Authority Field at Mile High

6 - 9 PM Reception at the Brown Palace

Monday, November 5th at Noble Energy

7:30 AM Breakfast

8:30 - 9:30 AM DEPA Board Meeting

9:30 AM - 12 PM Meetings

We would be honored if you could be the keynote speaker at one our scheduled times shown above. However, we can also accommodate a time convenient for you.

Thank you for your consideration,

We hope you will be able to join us.

Sincerely,

Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 10/18/2018 3:15:34 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RSVP VIP Invitation Small Biz Federal Procurement & Tech Plus Expo

RSVP VIP Invitation Small Biz Federal Procurement & Tech Plus Expo

Defense Tech Expos presents:

Special Invitation

Federal Government Small Business Procurement and Technology Plus Expo

Wednesday, October 24th, 2018

Free to attend for Government!

The hours are from 9 a.m. to 2 p.m. Bring coworkers!

Free table for Government OSDBUs and Small Business Program Managers!

RSVP please

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More than 35 exhibitors will demonstrate the latest in energy solutions, cloud technologies, cyber security, Big Data, solar power, disaster recovery, communication technologies, systems integration, wireless, 5G, manufacturers, Hyper Convergence, blockchain, AI. cell phones, greening, network solutions, construction, defense and Homeland Security equipment, engineering, architecture, construction, information technology products, COOP, training, Storage solutions, office automation products, data management, audio and visual equipment, hardware and software, healthcare, hospital applications, medical, software. furniture, office supplies, hospitality and So Much More.

Who will be there?

Most of the Vendors are Small Businesses: 8 (a)'s, Small and Disadvantaged Businesses,

Small and Woman Owned Businesses, Service Disabled Veteran Owned Businesses, Veteran Owned,

Native American Owned, and HUBZones). Some large manufacturers too.

Who should attend?

All Government personnel Everyone, especially: DoD. Civilians, Warfighters, OSDBUs, SADBUs, Small Business Program staff, Program

Managers, Project Managers, Engineers, Techs, Scientists, Security, Contracting Officers, CTOs, CIOs, CXOs, CISSPs, Buyers, purchase card holders, Economists, clerks,

Procurement, IT, Hospital, Medical, Labs, Public Affairs, Public works, SBLOs, PTAC/PTAP, everyone, etc. .

FREE of CHARGE to attend for Government!

Refreshments!

. Demos!

. Giveaways!

Education and Information!

What: Federal Small Business Procurement and Technology Plus Expo

Where: Holiday Inn Capitol, Congressional Ballroom next to FEMA

550 C Street, SW, Washington, DC 20024

near L'Enfant Metro and Federal Center Metro station

www.wmata.com

When: 10.24.18

Mark your calendar

Time: 9:00 AM - 2:00 PM

Larry Rinaldo

Defense Tech Expos

More information is available from 703-344-8771

Questions/Please RSVP to: LRinaldo@cox.ne t

Bring associates!

Free table for Government OSDBUs and Small Business Program Managers!

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Defense Tech Expos
7630 Provincial Dr Apt 103
McLean, VA 22102-7631

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Message

From: Smith, Lem O. [lem.smith@squirepb.com]
Sent: 10/22/2018 4:39:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Dickerson, Aaron [dickerson.aaron@epa.gov]; Willis, Sharnett [Willis.Sharnett@epa.gov]
Subject: Re: Updated Times
Attachments: mg_info.txt

Slight modification for tomorrow 10/23, we could meet anytime Tuesday am until 10 am or after 2 pm. Please disregard previous windows below.

Thx,
Lem

Lem Smith
Squire Patton Boggs
703-407-9789 - cell

From Verizon, Samsung smartphone - pls pardon typos

-------- Original message --------
From: "Smith, Lem O." <lem.smith@squirepb.com>
Date: 10/22/18 10:02 AM (GMT-07:00)
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Willis, Sharnett" <Willis.Sharnett@epa.gov>
Subject: Re: [EXT]

Thank-you, Ryan.

For tomorrow 10/23, we can be available anytime before noon OR 215-300 pm or after 5 pm. We could probably squeeze a 400pm in as a last resort.

Thanks,
Lem

Lem Smith
Squire Patton Boggs
703-407-9789 - cell

From Verizon, Samsung smartphone - pls pardon typos

-------- Original message --------
From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: 10/22/18 8:33 AM (GMT-07:00)
To: "Smith, Lem O." <lem.smith@squirepb.com>
Cc: "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Willis, Sharnett" <Willis.Sharnett@epa.gov>
Subject: [EXT]

Thanks again, shoot me some times. We'll get time set up.

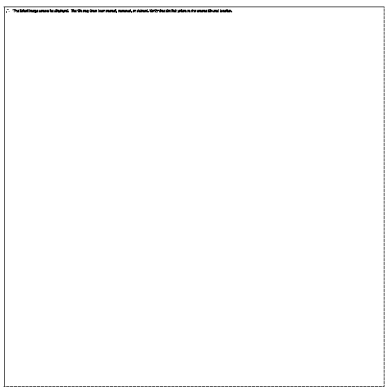
Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/6/2018 9:12:34 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Where was Ted Cruz?, Senators on Kavanaugh, Vegas Mobsters, Booker & Clyburn Fight Poverty

Where was Ted Cruz?, Senators on Kavanaugh, Vegas Mobsters, Booker & Clyburn Fight Poverty

Click here to subscribe.



PRESENTED BY STAND WITH PARKLAND

Straight from The Well

Saturday, October 6, 2018

A FUTURE THAT WORKS: NEW DEMS PROPOSE MODERNIZED WORKER SAFETY NET

This week the New Democrat Coalition's Future of Work Task Force, co-chaired by Reps. Bill Foster, Seth Moulton, and Jared Polis, released the second report in the new economic opportunity agenda: A Future that Works. The report, Creating a 21st Century Social Contract, outlines policy recommendations to create a social contract that works

for the future. The policy recommendations include updating the social contract by creating an option of portable benefits, modernizing the worker safety net, and expanding eligibility for these protections and programs. Read more.

VOTE ON KAVANAUGH: WHAT THE SENATORS ARE SAYING

(Tom Williams/Pool/CQ Roll Call/Abaca Press/TNS)

What are senators saying regarding the vote to confirm Supreme Court nominee Brett Kavanaugh? Read their responses.

BOOKER, CLYBURN COME TOGETHER TO FIGHT POVERTY IN AMERICA

This week U.S. Senator Cory Booker (D-NJ) and U.S. House Assistant Democratic Leader James E. Clyburn (SC-6) introduced a major new bicameral bill that they say will expand the successful 10-20-30 anti-poverty formula to a significantly larger group of federal accounts to ensure more funds are targeted to persistent poverty communities. The bill, titled An Act Targeting Resources into Communities in Need, also ensures federal investment in all high-need communities by targeting funding into high-poverty census tracts. Read more.

SENATE PASSES BIPARTISAN LEGISLATION TO TACKLE OPIOIDS, INCLUDES KEY DONNELLY PROVISIONS

This week, the Senate passed the "SUPPORT for Patients and Communities Act," a comprehensive bill to help address the opioid and drug overdose epidemic. The legislation passed on a bipartisan 98-1 vote, and now heads to President Trump's desk to be signed into law.

The bill includes several provisions advocated by Indiana Senator Joe Donnelly that would incentivize substance use disorder providers to work in areas that have high overdose rates, or a shortage of treatment providers, by providing up to $250,000 in student loan relief in exchange for up to six years of service. Read more.

Not Seen: Texas Senator Ted Cruz on the Senate Floor During the Opioid Vote

Despite being absent on Wednesday to vote on bipartisan opioid legislation that passed the Senate, the Senator from Texas put out a statement applauding passage of the landmark bill, saying "Today We Take a Stand for All Americans." According to news reports, Senator Cruz spent the same afternoon campaigning with Donald Trump, Jr. outside of Dallas. In 2015, 15.9 million prescriptions for opioids were written to Texans.

About Stand with Parkland

MISSION STATEMENT

Stand with Parkland is a national organization representing American families. We are committed to advocating for practical public safety reforms focused on the safety of our children and staff at school, improved mental health support, and responsible firearms ownership. Personal responsibility and a desire for change are paramount to this effort, and it is the people involved at all levels that will make these goals a reality. Violence in our schools affects everyone. It is an American epidemic, and it is time that we all come together to do something about it.

Next Week: Biden Stumps for Donnelly

Vice President Joe Biden and Joe Donnelly will hold an early vote rally in Hammond, Indiana next week to fire up supporters in the final month of the election, Joe's campaign announced today.

Candidate Profile: Colin Allred

Inspired by the many grassroots voices that have stepped forward to defend our common values since the 2016 election, Colin is running for Congress because he believes that, now more than ever, we need leaders who will stand up for everyone in our community. Read more.

Armed With Only a Martini and a Long Memory, Former Vegas Mayor Talks Mobsters, 'Rats' and Trump

Source: Los Angeles Times

Oscar Goodman sits in the chair, head bowed. The glow of his cellphone reflects in his large glasses. The dark, pinstriped suit jacket hangs long on his body. The martini, when not in his hand, is never far from reach. The people begin to filter into the private room decorated with black-and-white pictures of downtown Las Vegas when the mob was in charge. There's the Union Plaza. One of Tony "The Ant" Spilotro. And a much younger Goodman, of course. Read more.

In The News

- **At Princeton Event, Justices Kagan, Sotomayor Avoid Talking About Kavanaugh but Decry Politicization of Court**
  By Anna Orso

- **Pompeo Returns to North Korea in Latest Attempt to Revive Stalled Denuclearization Effort**
  By Tracy Wilkinson

- **Kansas City Fire Captain Charged With Illegally Selling Guns Used in Crimes Including Murder**
  By Tony Rizzo and Glenn E. Rice

When Cities Rely on Fines and Fees, Everybody Loses

Opinion by Anne Kim

Raising taxes is painful. That may be why, since 2010, 47 states and a number of cities have instead raised both civil and criminal fines and fees. These increases are often viewed as a conflict-free way to plug budget holes. In the last decade, for example, New York City grew its revenues from fines by 35 percent, raking in $993 million in fiscal 2016 alone. The monies came largely from parking and red light camera violations, as well as stricter enforcement of "quality of life" offenses such as littering and noise. In California, routine traffic tickets now carry a multiplicity of revenue-boosting "surcharges." As a result, the true price of a $100 traffic ticket is more like $490 -- and up to $815 with late fees, according to the Lawyers' Committee for Civil Rights of the San Francisco Bay Area. Read more.

CARTOONS OF THE WEEK

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Message

From: Beau Greenwood [redacted] Ex. 6
Sent: 10/23/2018 1:52:51 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: FW: Re:

Ryan, just writing to confirm our meeting with you at 4:30.

What's your office number/building?

Who's the contact when we clear security?

Thanks, Beau.

On Wed, Oct 17, 2018 at 6:06 PM Beau Greenwood <[redacted] Ex. 6> wrote:

Thank you.

Beau.

On Wed, Oct 17, 2018 at 2:14 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:

That will be fine. Thanks.

From: Beau Greenwood [redacted] Ex. 6
Sent: Wednesday, October 17, 2018 1:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re:

Thanks Ryan. Let's do 4:30.

Anything you need me to do on my end? Happy to tee-up topics in advance.

MANY thanks, Beau.

On Wed, Oct 17, 2018 at 1:21 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I could do 2:30 or 4:30.

Ryan Jackson

Chief of Staff

U.S. EPA

202-564-6999

On Oct 17, 2018, at 12:48 PM, Beau Greenwood <Ex. 6> wrote:

How about 3:00?

On Wed, Oct 17, 2018 at 11:31 AM Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Would the afternoon of Oct 24 work for you to meet?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(202) 564-6999

Message

From: Thompson, Ryan [thompsonr@akingump.com]
Sent: 10/15/2018 11:46:41 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: 20 min meeting this week?

Could also do first thing on Wednesday from 9am-11am. Would that work for you?

Ryan Day Thompson
AKIN GUMP STRAUSS HAUER & FELD LLP
Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

On Oct 12, 2018, at 4:05 PM, Thompson, Ryan <thompsonr@akingump.com> wrote:

> Does Wednesday afternoon work? Thanks! -Ryan
>
> **Ryan Day Thompson**
> **AKIN GUMP STRAUSS HAUER & FELD LLP**
> Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio
>
> On Oct 12, 2018, at 9:48 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> No I'll be on travel Monday and Tuesday.
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> 202-564-6999
>>
>> On Oct 12, 2018, at 10:45 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:
>>
>>> Ryan, would Tuesday afternoon work for a meeting with me and Patrick? Thanks! -Ryan
>>>
>>> On Oct 10, 2018, at 10:09 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:
>>>
>>> Yes, sorry for the delay in responding - would Tuesday afternoon work for you? Thanks. -RT
>>>
>>> **Ryan Day Thompson**
>>> **AKIN GUMP STRAUSS HAUER & FELD LLP**
>>> Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

On Oct 9, 2018, at 12:16 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

EXTERNAL Email

Does Patrick want a meeting? Just shoot me when.

From: Thompson, Ryan [mailto:thompsonr@akingump.com]
Sent: Tuesday, October 9, 2018 8:44 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: 20 min meeting this week?

If easier, let me know if I should reach out to someone on your scheduling team to get this on the books. Thanks! -Ryan

Ryan Day Thompson
AKIN GUMP STRAUSS HAUER & FELD LLP
Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

On Oct 8, 2018, at 8:03 AM, Thompson, Ryan <thompsonr@akingump.com> wrote:

Ryan,

Do you have 20 mins to meet this week? Preferably on Wednesday or Thursday? Thanks! - Ryan

Ryan Day Thompson
AKIN GUMP STRAUSS HAUER & FELD LLP
Mobile: 202.236.7885 | thompsonr@akingump.com | akingump.com | Bio

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Message

From: Ex. 6
Sent: 10/18/2018 8:48:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Following Up
Attachments: Ex. 6 Resume 101518.docx

Ryan, thank you again for the opportunity to meet with you this afternoon. As we discussed, attached is a copy of my resume. It includes a good bit of detail about my time at EPA (which I am reminded included one year and one month in the front office) and things I have done on the Hill that would be relevant to activities and issue areas at the Agency. I look forward to staying in touch and would be happy to talk with you about any opportunities that make sense to you going forward.

All the best,

Ex. 6

Ex. 6

Ex. 6

Ex. 6

Message

From: Holland, Luke (Inhofe) [Luke_Holland@inhofe.senate.gov]
Sent: 10/12/2018 2:24:22 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Wright, Jennie (Inhofe) [Jennie_Wright@inhofe.senate.gov]
Subject: Fwd: CORRECTION: Cloakroom Wrap Up

Sent from my iPhone

Begin forwarded message:

From: Cloakroom <subscriptions_cloakroom@rep-secretary.senate.gov>
Date: October 11, 2018 at 10:21:26 PM EDT
To: Undisclosed recipients:;
Subject: CORRECTION: Cloakroom Wrap Up
Reply-To: Cloakroom <subscriptions_cloakroom@rep-secretary.senate.gov>

Wrap Up Memo

THURSDAY, OCTOBER 11, 2018 AT 10:21 PM

CORRECTION: Cloakroom Wrap Up

Please note the addition of Confirmation of Executive Calendar #866, James M. Stewart, of North Carolina, to be an Assistant Secretary of Defense. Confirmed. (By voice vote)

Roll Call Votes:

Confirmation of Executive Calendar #640, Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General. Confirmed. (52-45)

Motion to invoke cloture on Executive Calendar #641, Eric S. Dreiband, of Maryland, to be an Assistant Attorney General. Invoked. (50-47)

Confirmation of Executive Calendar #641, Eric S. Dreiband, of Maryland, to be an Assistant Attorney General. Confirmed. (50-47)

Confirmation of Executive Calendar #866, James M. Stewart, of North Carolina, to be an Assistant Secretary of Defense. Confirmed. (By voice vote)

Confirmation of Executive Calendar #1007, David James Porter, of Pennsylvania, to be United States Circuit Judge for the Third Circuit. Confirmed. (50-45)

Confirmation of Executive Calendar #1081, Ryan Douglas Nelson, of Idaho, to be United States Circuit Judge for the Ninth Circuit. Confirmed. (51-44)

Confirmation of Executive Calendar #1082, Richard J. Sullivan, of New York, to be United States Circuit Judge for the Second Circuit. Confirmed. (79-16)

Confirmation of Executive Calendar #627, William M. Ray II, of Georgia, to be United States District Judge for the Northern District of Georgia. Confirmed. (54-41)

Confirmation of Executive Calendar #628, Liles Clifton Burke, of Alabama, to be United States District Judge for the Northern District of Alabama. Confirmed. (55-40)

Confirmation of Executive Calendar #629, Michael Joseph Juneau, of Louisiana, to be United States District Judge for the Western District of Louisiana. Confirmed. (54-41)

Confirmation of Executive Calendar #634, Mark Saalfield Norris, Sr., of Tennessee, to be United States District Judge for the Western District of Tennessee. Confirmed. (51-44)

Confirmation of Executive Calendar #638, Eli Jeremy Richardson, of Tennessee, to be United States District Judge for the Middle District of Tennessee. Confirmed. (52-43)

Confirmation of Executive Calendar #894, Thomas S. Kleeh, of West Virginia, to be United States District Judge for the Northern District of West Virginia. Confirmed. (65-30)

(Confirmation of Executive Calendar #907, Jeremy D. Kernodle, of Texas, to be United States District Judge for the Eastern District of Texas. Confirmed. (By voice vote)

Confirmation of Executive Calendar #895, Peter J. Phipps, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania. Confirmed. (By voice vote)

Confirmation of Executive Calendar #905, Susan Brnovich, of Arizona, to be United States District Judge for the District of Arizona. Confirmed. (By voice vote)

Confirmation of Executive Calendar #906 - Chad F. Kenney, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania. Confirmed. (By voice vote)

Confirmation of Executive Calendar #945, James Patrick Hanlon, of Indiana, to be United States District Judge for the Southern District of Indiana. Confirmed. (By voice vote)

Confirmation of Executive Calendar #947, Lance E. Walker, of Maine, to be United States District Judge for the District of Maine. Confirmed. (By voice vote)

Executive Session:

Cal. #1093 - Jason R. Dunn, of Colorado, to be United States Attorney for the District of Colorado for the term of four years.

Cal. #1094 - Dallas L. Carlson, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

Cal. #694 - Adam I. Klein, of the District of Columbia, to be Chairman and Member of the Privacy and Civil Liberties Oversight Board for a term expiring January 29, 2024.

Cal. #920 - Edward W. Felten, of New Jersey, to be a Member of the Privacy and Civil Liberties Oversight Board for the remainder of the term expiring January 29, 2019.

Cal. #921 - Jane Nitze, of the District of Columbia, to be a Member of the Privacy and Civil Liberties Oversight Board for a term expiring January 29, 2023.

Cal. #1077 - James Morhard, of Virginia, to be Deputy Administrator of the National Aeronautics and Space Administration.

Cal. #1031 - Kimberly Breier, of Virginia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

Cal. #1032 - Denise Natali, of New Jersey, to be an Assistant Secretary of State (Conflict and Stabilization Operations).

Cal. #1057 - John Cotton Richmond, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, with the rank of Ambassador at Large.

Cal. #1097 - Karen L. Williams, of Missouri, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador of the United States of America to the Republic of Suriname.

Cal. #1098 - Kevin K. Sullivan, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador of the United States of America to the Republic of Nicaragua

Cal. #1100 - Donald Y. Yamamoto, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador of the United States of America to the Federal Republic of Somalia.

Cal. #1101 - Earl Robert Miller, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador of the United States of America to the People's Republic of Bangladesh.

Cal. #1111 - Robert H. McMahon, of Georgia, to be an Assistant Secretary of Defense.

Cal. #1105 - Harold B. Parker, of New Hampshire, to be Federal Cochairperson of the Northern Border Regional Commission.

Cal. #1126 - Peter Gaynor, of Rhode Island, to be Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security.

PN 2386 - Mary Elizabeth Taylor, of the District of Columbia, to be an Assistant Secretary of State (Legislative Affairs).

ARMY

Cal. #1130 – Gen. Robert B. Abrams to be General

NAVY

Cal. #1131 – Vice Adm. Craig S. Faller to be Admiral

AIR FORCE

Cal. #1132 – Lt. Gen. Jerry D. Harris, Jr. to be Lieutenant General

NAVY

Cal. #1133 – Vice Adm. Andrew L. Lewis to be Vice Admiral

And all nominations on the Secretary's Desk in the Air Force, Army, and Navy.

Wrap Up:

H.R.6896, U.S. Parole Commission Extension Act

H.R.1037, National Emergency Medical Services Memorial Foundation

Cal. #376, H.R.2615 - Gulf Islands National Seashore Land Exchange Act

H.R.6758 – SUCCESS Act

H.R.6870 - To rename the Stop Trading on Congressional Knowledge Act of 2012 in honor of Representative Louise McIntosh Slaughter.

Cal. #553, S.2465 - Sickle Cell Disease and Other Heritable Blood Disorders Research, Surveillance, Prevention, and Treatment Act of 2018

S.1595 – Hizballah International Financing Prevention Amendments Act of 2017

H.R.2422 - Action for Dental Health Act of 2017 with Alexander substitute

S.Res.680 – Dyslexia Awareness

S.Res.681 – Character Counts

S.Res.682 – Nuclear Weapons Program Workers

S.Res.683 – Illinois Bicentennial

H.R.3342 – Human Shields with Corker amendments

S.Res.684 – Joseph D. "Joe" Tydings

H.R.390 - Iraq and Syria Genocide Emergency Relief and Accountability Act of 2017 with a Corker amendment

Tuesday, November 13th:

The Senate will convene at 3:00 pm. Following any Leader remarks, the Senate will resume consideration of the House Message to accompany S.140, Coast Guard Reauthorization.

At 5:30pm, the Senate will proceed to a roll call vote on the motion to invoke cloture on the motion to concur in the House amendment with a further amendment to S.140.

Wednesday, November 14th:

At 2:15pm, the Senate will proceed to two roll call votes on the following:

1. Motion to concur in the House amendment with a further amendment to S.140.

2. Motion to invoke cloture on Executive Calendar #909, Michelle Bowman, of Kansas, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2006.

Please note, the Leader filed cloture on the following items in the following order:

1. Motion to concur in the House amendment with a further amendment to S.140, Coast Guard Reauthorization.

2. Cal. #909 - Michelle Bowman, of Kansas, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2006.

The Senate will convene for pro forma session only, with no business conducted on the following dates and times:

Friday, October 12th at 12:00 pm

Tuesday, October 16th at 12:00 pm

Friday, October 19th at 10:00 am

Tuesday, October 23rd at 4:30 pm

Friday, October 26th at 5:00 pm

Tuesday, October 30th at 1:00 pm

Friday, November 2nd at 2:45 pm

Tuesday, November 6th at 4:00 pm

Friday, November 9th at 9:00 am

The Senate stands adjourned under the provisions of S.Res.684, in honor of Joseph D. "Joe" Tydings, former United States Senator for the State of Maryland.

Wrap Up Memos are sent from the Senate Republican Cloakroom using the telephone alert system. An E-mail copy is sent to offices and posted on Trunkline (**http://gop.senate.gov**) as a convenience, but primary notification will always come via telephone. If you have questions about wrap up memos, unanimous consent items or other floor scheduling matters, please call the Cloakroom at (202) 224-6191. Please do not reply to this message.

To change your Trunkline email subscriptions, please visit your **user profile** page.

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 10/17/2018 11:20:30 AM
To: Jason Johnston [jjohnston@law.virginia.edu]
CC: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: Essay published today supporting two EPA summer 2018 proposed rules

Dr. Johnston,

Thanks so much for the heads up - Look forward to the forthcoming chapter.

Clint
202.564.6562

On Oct 15, 2018, at 10:31 AM, Jason Johnston <jjohnston@law.virginia.edu> wrote:

> Hi Clint and Ryan:
> The Penn Regulatory Review published today online an essay of mine supporting both the April proposed rule on regulatory transparency and the June proposed rule on guidelines for cost benefit analysis. Here is a link. https://www.theregreview.org/2018/10/15/johnston-restoring-science-economics-epa/ Best, Jason
>
> Jason Scott Johnston
> Henry L. and Grace Doherty Charitable
> Foundation Professor
> Armistead M. Dobie Professor
> Director, Olin Program in Law and Economics
> University of Virginia School of Law
> 580 Massie Road
> Charlottesville, VA 22903-1789
> (434) 243-8552
> jjohnston@law.virginia.edu

Message

From: Live Webinar [webinar@training.compliancekey.net]
Sent: 10/18/2018 12:05:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Leadership: Strategic Planning and Decision Making

Hello,

I hope you're having a great week.

I am extending you the invitations for the live webinar on "**Leadership: Strategic Planning and Decision Making**" that we are hosting with Ijona Skills. If you are already registered, I apologize for the extra communication.

I wanted to take a moment to highlight the key features of our webinars and the speaker delivering this session.

Topic: Leadership: Strategic Planning and Decision Making
Date & Time: 24th October 2018 at 01:00 PM ET
Duration: 90 minutes

Register Here!

Overview:

Fail to Plan; Plan to Fail. Learn proven approaches to create or adapt your current mission to guide robust planning, execution, and daily decision making to get the results you need to assure your organization's growth. These extraordinary times require extraordinary performance by every leader and manager throughout the organization whether in the public, private, or nonprofit/NGO sector. Use your strategic plan to enhance your leadership, accomplish your goals, and make sound decisions based on your results. Improve your outcomes systematically.

Areas Covered in the Session:

- Strategic Approach to Planning
- Success factors to cascade the plan through the organization
- Stay focused on results, not activity, focused
- Grow, evolve, and improve your plan

Speaker's Credentials:

Rebecca Staton-Reinstein is Keynote Speaker at Ijona Skills. Clients get bottom- and top-line results from our mentoring emphasizing all aspects of strategic planning and leadership; leadership, management, and team...read more

Register Now!

Take a look at our LMS Platform (Unlimited access to 1000+ e-Learning hours: Stop, pause, and rewind: learn at your own pace).
click here to view our LMS platform.

If you have any questions, my line is always open.

Warm regards,

Simon Parker
Ijona Skills | Last mile connect
P: 302-830-3132 Ext: 100
Email: support@ijonaskills.us

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient.
If you believe you received this e-mail in error, please click here to remove yourself from my mailing list.

Message

From: Holland, Luke (Inhofe) [Luke_Holland@inhofe.senate.gov]
Sent: 10/22/2018 4:03:33 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Price, Wendi (Inhofe) [Wendi_Price@inhofe.senate.gov]
Subject: RE:

Was a Cole Staffer, now on Senate Indian Affairs.

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:01 AM
To: Holland, Luke (Inhofe) <Luke_Holland@inhofe.senate.gov>; Price, Wendi (Inhofe) <Wendi_Price@inhofe.senate.gov>
Subject:

Is the name Holmes Whalen familiar to you?

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/13/2018 8:15:48 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Yeezy & TayTay Midterm Map, Extreme Partisanship, Election Security, And Fewer White Men

Yeezy & TayTay Midterm Map, Extreme Partisanship, Election Security, And Fewer White Men

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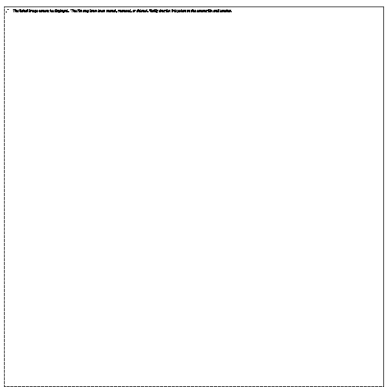

PRESENTED BY IRAQ AND AFGHANISTAN VETERANS OF AMERICA (IAVA)

Straight from The Well

Saturday, October 13, 2018

THE WELL NEWS ANNOUNCES HIRING OF MANAGING DIRECTOR

Former RealClearPolitics & RealClear Media Group Director of Operations to Run New Media Site

The Well News is pleased to announce the addition of Christina Paulos as our new managing director. Read more.

ELECTION SECURITY A FOCUS OF NEW DEMS AND TUESDAY GROUP COLLEAGUES

This week members of the New Democrat Coalition and the Republican Tuesday Group partnered together and called on President Trump to prioritize election security.

Russia's widespread engagement in the 2016 election has increased calls by many to do more to secure American elections, families and businesses. Recently the Department of Justice has indicted an additional 13 Russian agents regarding criminal activity related to election meddling. Read more.

American Statesmanship is Not Dead

Opinion by Glenn Nye

(Hickenlooper: Michael Brochstein/Sipa USA/TNS; Kasich: Cheriss May/NurPhoto/Zuma Press/TNS)

Extreme partisanship, we are often told, is the new normal. Americans are sorting into clusters of the same opinions, we choose our media diets so that discordant views never enter our partisan echo chambers, and the major political parties have gotten so adept at gerrymandering that, in essence, our representatives choose us rather than the other way around. Read more.

MIDTERMS 2018: POLLING AND ADS

Source: Tribune News Service

- **Poll: Abrams and Kemp in Tight Race in Georgia; Trump's Approval Up**
  Republican Brian Kemp and Democrat Stacey Abrams remain locked in a tight race for Georgia governor less than a month before the election, according to an Atlanta Journal-Constitution/WSB-TV poll that showed an increasingly dwindling number of undecided voters.

- **New Poll Shows Democrat Shalala Trailing GOP Opponent in a District Trump Lost Badly**
  Shalala, a Democrat running in a Florida district that President Donald Trump lost by nearly 20 percentage points in 2016, is trailing Republican TV journalist Maria Elvira Salazar by 2 percentage points in a Mason Dixon-Telemundo 51 poll. The independent poll's margin of error was 4 percentage points and included a pro-Trump nonparty candidate who could siphon votes from Salazar.

- **Yet Another Poll Says Missouri Senate Race is Tight. A Look Inside the Numbers Shows Why**
  Yet another independent poll shows Missouri's U.S. Senate race very close, but its underlying results on questions about issues and intensity reveal much more about the state of one of the nation's most-watched elections.

Progressives' War on Big Business Will Hurt Workers

Raising the minimum wage, not busting up Amazon and Walmart, should be the goal.

Opinion by Robert D. Atkinson and Michael Lind

When Amazon announced last week that it would pay all of its U.S. employees a minimum of $15 an hour — more than double the minimum wage — CEO Jeff Bezos called on "other large employers to join us." No company has risen to the challenge yet, but you can be sure some of them are talking about it. In addition to raising the pay of its own workers, including those who only work part time or seasonally, Amazon vowed to "work with policymakers in Washington, D.C. to advocate for a higher federal minimum wage." Read more.

About Iraq and Afghanistan Veterans of America (IAVA)

MISSION STATEMENT

Iraq and Afghanistan Veterans of America (IAVA) is the premier veterans advocacy and support organization on the planet. Every day, we fight for veterans. Hard. We are the tip-of-the spear non-profit engine of impact that connects, unites and empowers over 400,000 veterans and allies nationwide.

Candidate Profile: Susie Lee

After moving to Las Vegas in 1993, Susie became the Founding Director of After-School All-Stars, which serves over 7,000 students every day after school. Since 2010, Susie served as President of Communities In Schools of Nevada (CIS), a leading dropout prevention organization. Under Susie's leadership, CIS has grown to serve over 64,000 students in 63 schools in Nevada. Click here to watch Susie's campaign video and learn more about her.

The Golden State Shows Its Gray

By Melanie Mason

Susan Lowry, 54, a state-paid caregiver, gives the television remote to her husband, Alan, 60, on Friday, Sept. 14, 2018 at their home in Vista, Calif. (Allen J. Schaben/Los Angeles Times/TNS)

SACRAMENTO, Calif. — It was early in their courtship seven years ago when Manuel Villanueva warned his now-husband, “I come as a package of three.”

The other parts of that deal: his father, Ramon Villanueva, whose failing kidneys forced him to stop working, and his mother, Maria Guadalupe Olague. Read more.

In The News

- **Fewer White Men Running for Office as Women and Minorities Step Up, Report Finds**
  By Stephanie Akin

- **He Taught Himself to Draw in Prison. Now He's Winning Over the Art World**
  By Samantha Melamed

- **Under GOP Banner, but Not the 'Party of Trump'**
  By Christine Mai-Duc

- **Father-Son Eyewitnesses to Laquan McDonald's Shooting Tell Why They Came Forward**
  By Christy Gutowski

- **Too Much Money Is Too Good a Problem for Democratic Hopefuls**
  By Stephanie Akin

An Honorable Profession Podcast

Episode #3

NewDEAL Leader County Supervisor Ryan Coonerty (Santa Cruz County, CA), talks with NewDEAL Leader Steve Benjamin, who is the mayor of Columbia, SC and the current president of the U.S. Conference of Mayors, touching on how political life is different at the local level where a leader is held accountable every day, and how he's working every day to build unity and protect his community from the fracturing & divisions we see at the federal level. Listen now.

CARTOON OF THE WEEK

The Well News, 777 6th Street, NW, Washington, DC, 20001
Unsubscribe

Message

From: ECOS [ecos@ecos.org]
Sent: 10/12/2018 6:37:51 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: ECOS Takes a STAND, Welcomes New Iowa Member, & More

ECOS Takes a STAND, Welcomes New Iowa Member, & More

ECOSWIRE | Vol. 20 No. 40

View this email in your browser

ECOSWIRE

Friday, October 12, 2018

Vol. 20 No. 40

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- State News You Can Use
- Need-to-Know News in Air
- Upcoming Events

ECOS President Spells Out STAND Vision for Coming Year

Becky Keogh

In an October 5 letter to ECOS members, recently elected President Becky Keogh of Arkansas lays out an ambitious agenda for 2018-19 to be known as State and National

Dialogue, or STAND. Calling on the association to use its "newly cemented seat at the table" to not sit but stand, she envisions states going beyond having their voices heard to putting into practice shared decision-making, problem-solving, and programmatic development.

Keogh notes that through STAND, ECOS "will strive to operationalize cooperative federalism 2.0 and new strategic partnerships, increase emphasis on technology as a driver for transformation, and showcase improved environmental outcomes." [Parisien]

General Counsel Succeeds Ehm at Helm of Iowa DNR's Environmental Division

Ed Tormey

The Iowa Department of Natural Resources has announced the selection of Ed Tormey to serve as Acting Administrator for the Environmental Services Division. He succeeds newly retired Bill Ehm in the post.

Since 2004, Tormey has been the agency's General Counsel. He previously practiced environmental law in Ohio, having served as Legal Services Bureau Chief for the Ohio Environmental Protection Agency and in the private sector.

He is a graduate of the University of Iowa School of Law and a member of the American College of Environmental Lawyers. [Parisien]

Senate Passes Water Resources Infrastructure Bill

This week, the U.S. Senate approved bipartisan, comprehensive water resources infrastructure legislation that includes the Water Resources Development Act of 2018 (WRDA 2018). The legislation now travels to the White House for the President's signature.

The *America's Water Infrastructure Act of 2018* (S. 3021) grew out of negotiations among House and Senate committees with jurisdiction over various water resources and energy infrastructure issues. Title I of S. 3021 is WRDA 2018, which authorizes locally driven infrastructure improvements to water transportation and infrastructure to be carried out by the U.S. Army Corps of Engineers. Additional provisions address stormwater, wastewater, and drinking water infrastructure and hydropower development.

Click here for more information. [Parisien/Piper]

U.S. EPA Briefs State Associations on WOTUS, 404, and 401

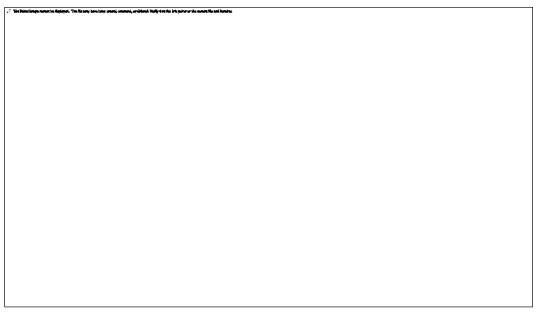
This week, U.S. EPA briefed ECOS and other state associations on developments surrounding Waters of the U.S. (WOTUS) and Clean Water Act Sections 404 and Section 401.

EPA and the Army Corps of Engineers are reviewing the approximately 75,000 comments received on the supplemental WOTUS proposal and expect to issue a proposed redefinition of WOTUS before the end of the year.

On CWA Section 404, EPA plans to issue a proposed rule to clarify assumption

requirements by next fall, with a final rule expected in 2020. The agency will reach out to states, tribes, and other stakeholders this fall to gather input prior to issuance of the proposed rule. In addition, EPA is considering whether the 401 certification process would benefit from a rulemaking and has begun reaching out to states and associations for feedback.

To receive more information or provide input on any of these issues, please reach out to Layne Piper of ECOS. [Swanson]



State News You Can Use

Colorado Recognizes Businesses and Organizations Going Beyond Compliance

Delaware Holds Public Hearing on Proposed ACE Rule

Rhode Island's Coit Recognized for Public Service

Rhode Island Tackles Plastics Pollution

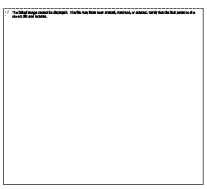
Need-to-Know News in Air

Area of Focus: *Air*

U.S. EPA Appoints Georgia, Texas, and Utah Members to CASAC

On October 10, U.S. EPA Acting Administrator Andrew Wheeler announced the appointment of five new members of the chartered Clean Air Scientific Advisory Committee. The panel now includes state representatives from the Georgia Department of Natural Resources, Texas Commission on Environmental Quality, and Utah Department of Environmental Quality (DEQ).

This panel will provide advice related to National Ambient Air Quality Standards (NAAQS) and is also tasked with leading review of the science for any necessary changes to the NAAQS for ozone or particulate matter. As outlined in the May 2018 Back-to-Basics Process for Reviewing NAAQS memorandum, these changes would be finalized by late 2020. [Poole]



Upcoming Events

Webinars & Trainings

ITRC on PFAS

The Interstate Technology & Regulatory Council (ITRC) invites your participation in its PFAS Training on one of the following dates:

- **November 4** in Sacramento, California
- **January 10, 2019** in Atlanta, Georgia [Olonoff]

U.S. EPA on Water Reuse

U.S. EPA's Office of Research and Development (ORD) will host its monthly tools and resources webinar on **October 17 at 3-4 p.m. Eastern**. Given increasing pressures on water resources, many communities are developing centralized systems for planned water reuse. ORD is working with the National Blue Ribbon Commission for Onsight Non-Potable Water Systems (ONWS), a coalition of state and local groups established to advance best management practices to support the use of ONWSs. This webinar will highlight the key issues limiting adoption of these ONWSs, and will summarize the work to date and ongoing collaboration.

To register for the webinar, see here. [Longsworth]

U.S. EPA on Harmonizing Recycling Programs

Why are some materials accepted in one community but not in another? What materials belong in curbside recycling? The Recycling Partnership has worked with the City of Milwaukee and the surrounding Waukesha County to develop harmonized recycling communication tools. This effort demonstrated that when regional recycling efforts are coordinated and complementary, program participants are less confused and less likely to throw something in the bin that does not belong there. Eliminating contamination from the bin is critical in today's recycling markets.

Join U.S. EPA's Sustainable Materials Management Web Academy Webinar on **October 18 at 1-2:30 p.m. Eastern** to learn how these Wisconsin communities partnered with state environmental officials and others to create tools and coordinate recycling efforts.
To register, see here. [Longsworth]

ITRC on Remediation Management of Complex Sites

The Interstate Technology & Regulatory Council (ITRC) will hold an online training course on Remediation Management of Complex Sites on **October 23 at 1-3:15 p.m. Eastern**.

At some sites, complex site-specific conditions make it difficult to fully remediate environmental contamination. This training course and associated guidance document provides a recommended holistic process for management of challenging sites, termed "adaptive site management." After attending this training, participants will be able to: identify and integrate technical and nontechnical challenges into a holistic approach to remediation; develop a long-term performance-based action plan; apply well-demonstrated techniques for effective stakeholder engagement; and access additional resources, tools, and case studies most relevant for complex sites.

Learn more and register here. [Olonoff]

ECOS and U.S. EPA on Compliance Research for Effective Government

ECOS and U.S. EPA are hosting a new webinar series entitled *Compliance Research for Effective Government.* The series will help state and EPA program administrators understand how collaboration with academics can identify effective and measurable approaches to compliance. The first webinar featured the Ohio Signage at Outfalls Study with presenters Brian Hall of the Ohio Environmental Protection Agency and Dr. Jay Shimshack of the University of Virginia. The future webinar schedule is:

- **October 23, 2-3:30 p.m. Eastern: Two Uses of Data Analytics**: one to predict air quality and inform the public and the other to improve compliance. Daniel Dix, Minnesota Pollution Control Agency, and Christina Seybolt, University of Chicago.

- **November 8, 1-2 p.m. Eastern: Compliance Interventions on the Behaviors of Third Party Lead Contractors.** Andrew Gosden, Maryland Department of the Environment, and Dr. Ben Meiselman, Johns Hopkins University.
- **November 29, 2-3 p.m. Eastern: Compliance Assurance Toolbox.** David Hindin, Office of Compliance, Office of Enforcement and Compliance Assurance, U.S. EPA, and Sam Sankar, ECOS.
- **December 11, 1-2 p.m. Eastern: New Hampshire Hazardous Waste Generator Training Program.** Tim Prospert, New Hampshire Department of Environmental Services, and Dr. Sarah Strafford, College of William and Mary.

Please register for the webinars here. For more information, please contact Sonia Altieri of ECOS. [Altieri]

ECOS Shale Gas Caucus on Novel Air Leak Detection Approaches

The ECOS Shale Gas Caucus (SGC) will host a webinar on **October 24 at 2-3 p.m. Eastern** on novel leak detection approaches for methane and volatile organic compounds (VOCs). The session aims to stimulate dialogue on the potential value of novel detection for super-emitters, given innovation in continuous and aerial monitoring.

Moderated by SGC Co-Chairs Martha Rudolph of Colorado and Dave Glatt of North Dakota, the webinar will feature speakers with the Interstate Technology and Regulatory Council, EDF+Business, and other organizations.

An agenda and call information will be distributed to SGC members. Please contact Lia Parisien of ECOS for additional information. [Parisien]

ITRC on Issues and Options in Human Health Risk Assessment

The Interstate Technology & Regulatory Council (ITRC) will hold an online training course on Issues and Options in Human Health Risk Assessment on **October 25 at 1-3:15 p.m. Eastern**.

Regulatory project managers and decision-makers may not have specific guidance when alternative approaches, scenarios, and parameters are proposed for site-specific risk

assessments, and are faced with difficult technical issues when evaluating these site-specific risk assessments. This training course and associated guidance document are resources for evaluating alternatives.

Learn more and register here. [Olonoff]

U.S. EPA on Water Quality Standards

The U.S. EPA Water Quality Standards Academy provides technology transfer and implementation information to WQS professionals associated with the federal, state, tribal, and local agencies as well as the private sector. It will hold a winter session in the Washington, DC area on **December 10-14**. Registration closes on **October 18**, or when capacity is reached.

Please click here to register. [Piper]

Visit ECOS.org

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Message

From: Ex. 6
Sent: 10/12/2018 6:36:37 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Greetings!
Attachments: Ex. 6 doc

Hi Ryan,

Thank you for the call yesterday. I am very excited that you, Administrator Wheeler and President Trump are working to implement science based policies and common sense to increase the effectiveness of the EPA in fulfilling its mission. I would be honored to be considered for a role on your team.

Attached is a copy of my resume. While my work after Capitol Hill has been in the private sector, I have continued to follow - often with great frustration - many of the issues I covered when working for Senator Sessions. It has been lately refreshing to witness science, logic and reason prevail over emotion and mischaracterization in developing sound environmental policy.

I look forward to speaking with you and hope we will have a opportunity to meet personally soon.

Sincerely,

Ex. 6

Ex. 6

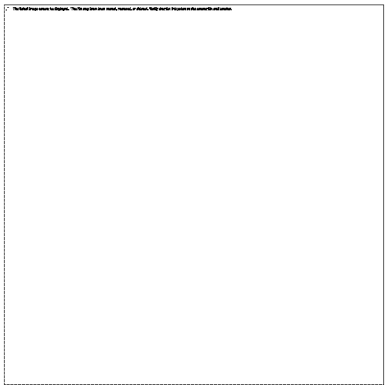
Ex. 6

Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 10/17/2018 10:44:02 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Tax Talk?, Debate Clips, National Debt and America's Economic Future

Tax Talk?, Debate Clips, National Debt and America's Economic Future

Click here to subscribe.



PRESENTED BY STAND WITH PARKLAND

Straight from The Well

Wednesday, October 17, 2018

AN ACCOMPLISHED MAYOR, MCADAMS HOPES TO BRING BIPARTISAN APPROACH TO POLARIZED CONGRESS

Ben McAdams meets voters on the campaign trail.

If you ask Ben McAdams how he has managed to accomplish so much as Salt Lake County Mayor, his answer is pretty simple. Collaboration and bipartisanship.

Read more here.

A new survey by the University of Utah's Hinckley Institute of Politics in partnership with The Salt Lake Tribune has McAdams and Love at a dead heat at 46%-46%. The race is rated as a "toss-up" by The Cook Political Report.

WHERE HAVE ALL THE DEFICIT HAWKS GONE?

Despite all the blustering on the campaign trail about the debt and deficit, this week the Treasury Department announced a fiscal year 2018 deficit of $779 billion. This is the largest deficit since 2012, two years after the Tea Party wave swept Democrats out of power in the House in 2010.

What are budget hawks in Congress saying?

Blue Dog Coalition on Twitter: Unfortunately, we're now seeing the repercussions of the partisan, deficit-exploding GOP tax law. But, it doesn't have to be this way. Our future depends on both parties working together to get our nation's fiscal house back in order. We can be fiscally responsible—we must be.

Data Gap in Measuring Alternative Work

In recent decades, globalization and technological change has disrupted work and accelerated changing dynamics between workers and companies, giving rise to more alternative work arrangements.

Read the New Democrat Coalition's latest blog post on the data gap in measuring alternative work and what we can do to empower American workers with the tools they need to succeed.

About Stand With Parkland

MISSION STATEMENT

Stand with Parkland is a national organization representing American families. We are committed to advocating for practical public safety reforms focused on the safety of our children and staff at school, improved mental health support, and responsible firearms ownership. Personal responsibility and a desire for change are paramount to this effort, and it is the people involved at all levels that will make these goals a reality. Violence in our schools affects everyone. It is an American epidemic, and it is time that we all come together to do something about it.

Arizona Senate Debate

Candidates for Arizona's U.S. Senate seat,
U.S. Representatives Kyrsten Sinema (D)

Virginia 7th Congressional District Debate

and Martha McSally (R), debated at an event hosted by Arizona PBS and the *Arizona Republic* in Phoenix. They discussed the Trump administration, tariffs, Supreme Court Justice Brett Kavanaugh, health care, immigration reform, and the 2017 Republican tax bill.

Watch Now

Candidates for Virginia's 7th Congressional District seat, incumbent Representative Dave Brat (R) and challenger Abigail Spanberger (D), took part in a debate. They discussed the national debt, education funding, immigration, and health care reform.

Watch Now

Candidate Profile: Katie Hill

Katie is an experienced change maker running for Congress in her hometown (Saugus '04!) to give a voice to the people of California's 25th district. If you're a member of this community then you already know Katie

– she's the daughter of a local registered nurse and police officer, she's been educated at your public schools, and there's a good chance you've shared a grocery store checkout lane once or twice. Katie attended public schools in the 25th District and holds a BA and Master's from Cal State University Northridge. Click here to watch Katie's campaign video and learn more about her.

Defunding America's Future: The Squeeze on Public Investment in the United States

Publication/Policy Memo by Ben Ritz, PPI

Every year since President Bill Clinton left office in 2001, the federal government has spent more money than it raised in revenue, borrowing from outside investors to make up the difference.

All this borrowing comes at a cost: By the end of the next decade, the federal government is projected to pay out over $1 trillion annually on interest payments alone if current policies remain in place. That's $1 trillion every year that we could be investing in America's future by researching promising new technologies, building bridges and railroads, or training a next-generation workforce. Instead, it will be wasted paying for yesterday's debts. Read more.

In The News

- **McConnell Blames Entitlements, Not GOP, for Rising Deficits**
  By Steven T. Dennis

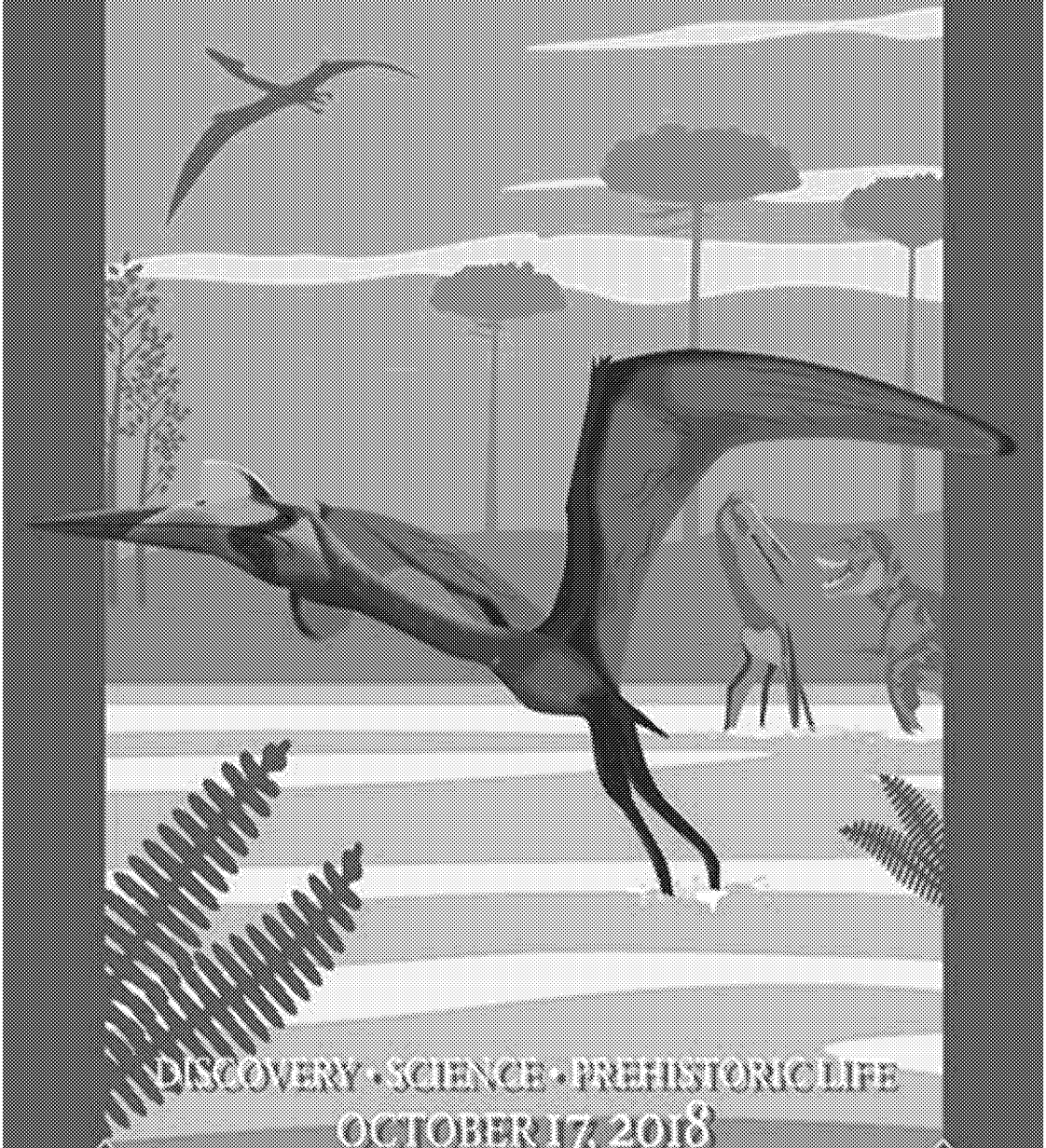
- **Top-Spending Republican Group Says Little About Trump Tax Law in Campaign**
  By Sahil Kapur and John McCormick

- No Sign of Breakthrough After Pompeo Meets With Saudi Rulers Over Missing Journalist
  By Tracy Wilkinson and Umar Farooq

EVERY DAY IS SOME DAY: National Fossil Day

Source: National Day Calendar

NATIONAL FOSSIL DAY



DISCOVERY • SCIENCE • PREHISTORIC LIFE

OCTOBER 17, 2018

National Fossil Day™ 2018 Artwork (National Park Service)

National Fossil Day was first held on October 13, 2010, during Earth Science Week. National Fossil Day was established to promote the scientific and educational values of fossils. Each year a new National Fossil Day logo is created depicting a prehistoric organism. The logos help to promote National Fossil Day and provide educational opportunities to share more information about fossils. Celebrate by visiting a local museum or do some research about fossils. #NationalFossilDay

MIDTERMS 2018: POLLING AND ADS

HMP Launches $4.7 Million in Ads in 11 Media Markets
House Majority PAC launched new TV ads in 9 districts across the country: AZ-02, IA-03, KS-03, KY-06, MN-01, NJ-03, NJ-05, TX-23, and WA-08. The buys across these 9 districts total approximately $4.7 million with ads in 11 different media markets.

EDF Action Launches Television Buy in NJ-03
This week EDF Action launched a new television ad, "Cost," targeting Congressman Tom MacArthur in New Jersey's 3rd Congressional District. The ad is part of a previously announced $1 million joint effort by LCV Victory Fund, EDF Action, Environment America Action Fund and Clean Water Action.

NEWS YOU CAN'T USE

Climate Change Will Lead To Beer Shortages And Price Hikes
(IFLScience!)

The Well News, 777 6th Street, NW, Washington, DC, 20001
Unsubscribe

Message

From: Kevin Serafino [kserafino@TheHCPA.org]
Sent: 10/5/2018 5:33:56 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Dickerson, Aaron [dickerson.aaron@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Owen Caine [ocaine@thehcpa.org]
Subject: Invitation to Speak - HCPA Mid-Year Meeting, May 1-3 2019
Attachments: ATT00001.txt; Wheeler Invitation Letter 10.5.18.pdf

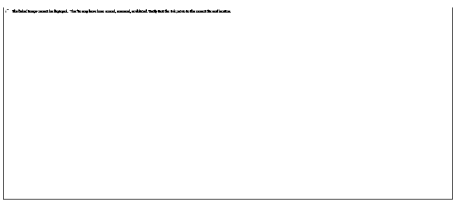
Dear Administrator Wheeler:

As a follow-up to your meeting with Household & Commercial Products Association President & CEO Steve Caldeira earlier this week, I am reaching out to invite you to speak at HCPA's Mid-Year Meeting, May 1-3, 2019 at the Mayflower Hotel in Washington, DC. A formal invitation letter with further details is attached to this email. We believe our members would benefit from your unique insights and vast experience gained leading such a pivotal government agency.

Thank you for considering this request, and for your ongoing leadership at the EPA.

Sincerely,

Kevin Serafino
Director, Federal Government Relations & Public Policy
Household & Commercial Products Association
1667 K Street NW, Suite 300 | Washington, DC 20006
Direct: 202-833-7338 Mobile: 978-578-5820
kserafino@TheHCPA.org | *www.TheHCPA.org*



Watch Our Story

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HOUSEHOLD & COMMERCIAL PRODUCTS ASSOCIATION
Innovative Products For Home. Work. Life.

Stephen J. Caldeira, President and CEO

October 5, 2018

The Honorable Andrew Wheeler
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Wheeler:

On behalf of the Household & Commercial Products Association, its Board of Directors, and its members that are responsible for 200,000 direct jobs and $180 billion in annual sales in the United States, I sincerely thank you for meeting with me this week to discuss issues that are critically important to our industry. We once again congratulate you on your appointment as Acting Administrator and look forward to working with you and your staff in the future.

As we mentioned during the meeting, our members would benefit from your unique insights and vast experience gained leading such a pivotal government agency. With that in mind, you are cordially invited to address HCPA's mid-year meeting, IMPACT2019, May 1-3, 2019 at the Mayflower Hotel in Washington, DC.

We believe that your work as Administrator of the Environmental Protection Agency allows you to provide our members and conference attendees with a unique perspective on the state of environmental, sustainability, and chemical safety regulations that impact businesses across the country. HCPA members are formulators, marketers, and suppliers of household and commercial products used in homes and workplaces, and many work closely with the EPA to ensure that their products are safe. We expect approximately 400 executives specializing in scientific affairs, regulatory compliance, and product marketing to attend.

Because the agenda for the meeting is still in formation, we are currently very flexible with the timing of your presentation, should you choose to accept this invitation. If you or your staff require additional information about this event, or wish to coordinate your attendance, you may contact HCPA's Executive Vice President of Government Relations & Public Policy, Owen Caine, at 202-833-7310 or ocaine@thehcpa.org.

Our association and our industry truly appreciate your dedicated service and leadership at EPA and thank you for respectfully considering this request. We truly appreciate it.

Sincerely,

Stephen J. Caldeira

1667 K Street NW, Suite 300, Washington, DC 20006 | Office 202-833-7302 | Cell 203-219-3412 | Fax 202-223-2636 | www.theHCPA.org

Message

From: Brian C Mormino [brian.c.mormino@cummins.com]
Sent: 10/19/2018 3:20:05 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: FW: Nationwide HDOH Low NOx Rule
Attachments: EMANOxHandout12.17.pdf

Ryan, please see the material below and attached on potential regulatory improvements to the heavy-duty on-highway as provided by EMA.

From: Brian C Mormino
Sent: Thursday, June 14, 2018 10:52 AM
To: 'Wheeler, Andrew' <wheeler.andrew@epa.gov>
Subject: Nationwide HDOH Low NOx Rule

Dear Deputy Administrator Wheeler:

As discussed, our goal is to create a more effective and efficient national heavy-duty emissions program that will significantly reduce real world NOx emissions.

The Truck and Engine Manufacturers Association (EMA) submitted comments on various regulatory reform options. Below is a summary of the key elements that could be reformed as part of a national heavy-duty on-highway low NOx regulation. Additionally, attached is a document that EMA provided to Assistant Administrator Wehrum in December 2017.

Please let me know if you need any additional information,

Brian

Priorities for Regulatory Reform in a Streamlined Nationwide HDOH Low NOx Rule

There are a number of opportunities for regulatory streamlining and reform, including the following:

- **On-board diagnostic (OBD) requirements.** CARB's OBD requirements are overly complex and expensive, costing each manufacturer more than $25 million per year (which is a significant percentage of each engine manufacturer's annual R&D budget). The OBD requirements could be streamlined by EPA as they only need to cover basic diagnostics to ensure the functionality of key emission-control system components.
- **Manufacturer-run heavy-duty in-use testing (HDIUT).** The current program is expensive, inefficient, and not well-suited to the assessment of real-world emissions exceedances. As EPA develops new low-NOx regulations, it has the opportunity to develop more cost-effective means of assuring real-world compliance and eliminate the HDIUT regulations.
- **Production Line Testing and Selective Enforcement Audits.** These programs are no longer needed and the expense associated with them can be reduced or eliminated.
- **Deterioration Factor (DF) Testing.** This testing, aimed at establishing emission levels at the end of an engine's useful life, is exceedingly time consuming (in months), resource intensive (test cells and test engineers) and expensive (in millions of dollars). Streamlined requirements incorporating accelerated aging methods are necessary in lieu of current DF requirements.
- **"Carry-over" engine family certification.** Eliminate the need for expensive and unnecessary annual re-certification of engine families (where the underlying technology has not changed from one model year to the next).

- **Phase 2 GHG regulations.** The HDOH industry generally supports the GHG Rule and opposes wholesale changes. However, certain requirements can be eliminated, including the annual chassis-dynamometer testing of five HDOH vehicles, duplicative and costly aerodynamic "coastdown" tests, and burdensome GHG-credit reporting requirements.

Truck & Engine Manufacturers Association®
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www.truckandenginemanufacturers.org

EPA Should Proceed With A HDOH Low NO_x Rule

Industry Request

- *Deliver* benefits associated with an EPA-led national HDOH low NO_x rulemaking
- *Develop* an appropriate EPA rulemaking schedule
- *Direct* OTAQ to work with us and other stakeholders, including CARB

Rationale for EPA Leadership

- Essential to achieving a national program—that is our key goal
- Opportunity for an EPA win-win
  - *Streamline* current regulations to achieve cost savings and spur growth
  - *Achieve* real-world NOx reductions that will contribute to ozone and PM reductions
  - *Capitalize* on broad stakeholder support
  - *Leverage* OTAQ's expertise in crafting a smart rule
  - *Assist* California's ozone attainment (60-70% of California's VMT is from out-of-state vehicles)
- Without EPA leadership
  - HD NO_x will remain ~30% of all transportation NO_x
  - Substantial likelihood of multiple standards for products that operate in interstate commerce
  - Increased manufacturing and compliance costs; loss of competitiveness for U.S. based manufacturers

Opportunity for Success

- Pick the low-hanging fruit: Over time EPA and CARB have added new HDOH requirements piecemeal; no comprehensive review in almost two decades.
- Leverage our technology to achieve reforms: An HDOH low NO_x rule can provide the framework to leverage technology advancements to streamline, modernize, reform and reduce the costs of the current program.
- Deliver real-world reductions: An EPA-led approach can provide significant NO_x reductions by refocusing emission standards from lab-based testing to real-world emission monitoring and control (while maintaining a 50-state harmonized program).
- Avoid pitfalls: It is essential for EPA to act to: avoid a patch-work of regulations; help those areas in need to move towards ozone attainment; reduce secondary PM emissions; maintain existing GHG/fuel efficiency standards; allow manufacturers to cost effectively develop high performing, reliable, durable, customer acceptable products that can be sold nationwide; provide manufacturers leadtime, stability and certainty.

Message

From: Zack Colman [zcolman@politico.com]
Sent: 10/17/2018 10:19:17 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: I'm now at POLITICO

Thanks, Ryan. If you've got time for a coffee, lemme know

Get Outlook for iOS

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Wednesday, October 17, 2018 6:16:39 AM
To: Zack Colman
Subject: Re: I'm now at POLITICO

Congratulations on the new job.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 16, 2018, at 12:27 PM, Zack Colman <zcolman@politico.com> wrote:

> Hi there,
>
> Today is my first day at POLITICO / POLITICO Pro – I'm staying on the energy and environment beat, so I wanted to make sure you had my new email address. Cell phone is the same: Ex. 6
>
> Thanks!
> -Zack

Message

From: Holland, Luke (Inhofe) [Luke_Holland@inhofe.senate.gov]
Sent: 10/22/2018 3:22:06 PM
To: Price, Wendi (Inhofe) [Wendi_Price@inhofe.senate.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE:

Yeah...Doesn't he work for a Oklahoma House member? I think Frank Lucas?

From: Price, Wendi (Inhofe)
Sent: Monday, October 22, 2018 11:14 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Holland, Luke (Inhofe) <Luke_Holland@inhofe.senate.gov>
Subject: RE:

I don't know that name.

On the Senate global address book he pulls up under the Indian Affairs Committee.

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Monday, October 22, 2018 11:01 AM
To: Holland, Luke (Inhofe) <Luke_Holland@inhofe.senate.gov>; Price, Wendi (Inhofe) <Wendi_Price@inhofe.senate.gov>
Subject:

Is the name Holmes Whalen familiar to you?

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 10/23/2018 1:31:35 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RSVP VIP Invitation Small Biz Federal Procurement & Tech Plus Expo

RSVP VIP Invitation Small Biz Federal Procurement & Tech Plus Expo

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When: 10.24.18

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Time: 9:00 AM - 2:00 PM

Larry Rinaldo

Defense Tech Expos

More information is available from 703-344-8771

Questions/Please RSVP to: LRinaldo@cox.ne t

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Message

From: Bloomberg Government [bbg_gov@info.bgov.com]
Sent: 10/15/2018 11:02:31 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: A $1.66 Trillion Cyber Vulnerability

Bloomberg Government Technocrat

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What's New This Week:
Pentagon's Cyber (In)Security Revealed

It was another stormy week—literally and figuratively speaking. Hurricane Michael hit the Florida Panhandle an the title of one of the most vicious storms at landfall in U.S. history. NASA's cameras outside the International S Station were able to capture details of the fast-moving hurricane.

Another storm was brewing at the Pentagon, which dominated the headlines after a government watchdog reve that the Defense Department hasn't done enough to protect its critical weapons systems from cyberattacks. Th Government Accountability Office asked to assess the cybersecurity of the Pentagon's $1.66 trillion major weap systems program and found several vulnerabilities that left officials scrambling, according to GAO's newly relea report.

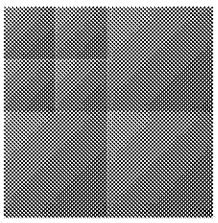
Simply taking steps to prevent future vulnerabilities isn't enough, GAO said. A lack of skilled cybersecurity profe is a real problem for the Defense Department and the agency will have to find other ways to ensure security fla fixed before reaching the field. Because cybersecurity talent is in short supply, expect agencies facing similar challenges to start sharing skilled personnel across organizations. BGOV's Chris Cornillie explains more in this exclusive story.

Speaking of shared resources, things aren't looking too great for the federal government's civilian computer net either. The National Cybersecurity Protection System has detected only 1 percent of cyber incidents since April the Office of Management and Budget recently found. Ron Johnson, chair of the Senate Homeland Security Co cited the data during a hearing last week and criticized federal agencies for their inability to protect data and ne

Meanwhile, federal agencies are scrambling to meet Homeland Security's Oct. 16 deadline to implement the D based Message Authentication, Reporting and Conformance protocol, known as DMARC. The directive was iss nearly 12 months ago to tighten email security. Despite all the hype surrounding DMARC adoption, there are m concerns that implementing it will give agencies a false sense of security.

On a related note, there is some good news on the federal authentication front. The government is deploying tw authentication for federal agency dot-gov domains. That means federal and state employees in charge of gover websites will soon be required to access their administrative accounts using the method.

We can't argue with the benefits of adding an extra layer of security! There's more news where that came from, reading…



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Next.2018

Save The Date For A First Look At Tech And Government Post-Election: What Changed

Join Bloomberg Government this November 13-15 for critical conversations about the intersection of innova technology, and policy one week after the midterm elections.

This year Next.2018 is expanding to the InterContinental at The Wharf in D.C., and will bring together busir leaders, tech pioneers, and Capitol Hill policy makers to discuss emerging technologies that change the wa live, the complex relationship between Capitol Hill and Big Tech, the impact of the digital revolution on rural underserved communities, and the disruption that machine learning and AI can bring to employment.

Join the conversation this November. To register, click here.

Get Smart

"We are continuously strengthening our defensive posture through network hardening, improved cybersecurity, and working with our international allies and partners and our Defense Industrial Base a Defense Critical Infrastructure partners to secure critical information."

—Pentagon spokesperson Audricia Harris

Read more in this week's exclusive from Bloomberg Government.

In the Cloud

JEDI Contract Faces More Backlash
The Defense Department lost a potential bidder for its $10 billion cloud contract known as JEDI, when Google c
out of the competition. Then IBM became the second company to file a bid protest against the contract over its
vendor approach. Read more.

Meanwhile, Microsoft Closes In on Amazon
Microsoft said it has achieved the required security levels to host the government's intelligence data on its Azur
network. The move could put the tech giant in close competition with rival Amazon for the JEDI contract, now th
Google is out of the picture. Read more.

Strategy & Leadership

Improved IT Workforce Is Key to Innovation
The U.S. government's lack of a better IT and data-knowledgeable workforce is the reason why federal innovat
moving as fast as it should, according to Margaret Weichert, who recently took over as acting director of the Of
Personnel Management. Read more.

Agencies Search for New Deputy CIOs
The summer was a busy time for personnel changes in federal IT. Among those departing is now-retired U.S.
Citizenship and Immigration Service Deputy CIO Keith Jones. Other execs have moved on to new roles. Read

Eye on Security

Bots Becoming Harder to Recognize
Regulators are worried that advanced bots could influence their decision-making by sending phony comments t
agencies. Yet agencies claim they're able to identify fake mass campaigns designed to increase the number of
comments in favor of—or against—a proposed rule. Read more.

Army Actively Recruiting Cyber Talent
The Army is in the process of developing a "holistic talent management strategy" to recruit, educate, and retain

cybersecurity personnel. One of the program's goals is to bring in civilian cyber professionals and commission t
officers right away. Read more.

Next Tech

Pentagon Can't Pinpoint AI Spending
Creating a budget for AI programs is not an easy task because of the technology's broad definition, Deputy Sec
Defense Patrick Shanahan said during a recent roundtable. That's just one of the reasons why the Pentagon do
know exactly how much it's spending on AI. Read more.

Future of Blockchain in Government
While the government can greatly benefit from blockchain, the technology is still in its infancy and adoption is e
to be slow. So far, research on blockchain in in the public sector shows federal agencies are thinking about it, b
testing has not started yet. Read more.

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Message

From: Melissa Shute [mshut@equinor.com]
Sent: 10/15/2018 5:24:27 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Equinor New Head of US

HI Ryan!

Hope you are doing well and things have calmed down a bit for you after the transition. We need to find time to grab drinks soon.

I am reaching out to you to see if Andy would be available to meet Hans Jakob Hegge, Equinor's new Head of the US, on Oct 24th or 25th. Hans Jakob has 23 years of experience with Equinor, worked in three countries, and previously served as the Chief Financial Officer for the company. This will be his first visit to DC in his new role and we are scheduling meetings for him with Equinor's key DC stakeholders. The meeting would be a bilateral meeting introducing him to EPA leadership, current regulatory agenda, and direction of EPA going forward. We think this will provide him with more context on EPA's role and additional insight on how Equinor can partner with the agency more effectively.

Please let me know if you have any questions.

Best Regards,

Melissa Shute
Senior Director
Political and Public Affairs
Equinor US Holdings Inc.

+1 202 370 5213 (direct)
+1 202 213 5617 (cell)
mshut@statoil.com

Visitor address: 1050 K Street NW, Suite 950, Washington, DC 20001

equinor.com
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Thank you

Message

From: Deziel, Dennis (DR) [DRDeziel@dow.com]
Sent: 10/10/2018 1:47:09 PM
To: Stewart, Lakita [Stewart.Lakita@epa.gov]; Cook, Steven [cook.steven@epa.gov]; McIntosh, Chad [mcintosh.chad@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Plastic Waste/Marine Debris Meeting Request

We could make the week of October 29th or the week of November 12th work. We would have a few of our executives fly-in for the meeting.

Thank you for your consideration, Dennis

Dennis Deziel
Director, Federal Government Affairs
The Dow Chemical Company
500 North Capitol Street, NW Suite 200
Washington DC 20001
(202) 429-3420 (office) | (301) 385-1284 (mobile – **NEW!**)
E-Mail: DRDeziel@dow.com

WORLDWIDE PARTNER

From: Cook, Steven [mailto:cook.steven@epa.gov]
Sent: Tuesday, October 02, 2018 9:05 PM
To: McIntosh, Chad <mcintosh.chad@epa.gov>
Cc: Deziel, Dennis (DR) <DRDeziel@dow.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Stewart, Lakita <Stewart.Lakita@epa.gov>
Subject: Re: Plastic Waste/Marine Debris Meeting Request

Dennis - I will work with OITA on the scheduling. Look forward to the discussion

Steven

Sent from my iPhone

On Oct 2, 2018, at 5:02 PM, McIntosh, Chad <mcintosh.chad@epa.gov> wrote:

> Dennis — per our call, Lakita Stewart will help arrange a time that we can get together. We can coordinate with the OLEM and Water also. Great to talk with you .
>
> Chad
>
> Sent from my iPad
>
> On Oct 2, 2018, at 3:35 PM, Deziel, Dennis (DR) <DRDeziel@dow.com> wrote:
>
>> Sounds good, thanks Ryan.
>>
>> Nancy, Chad, Steven – let me know how you'd like to proceed with scheduling, if possible.

I have removed Peter from the email chain for simplicity sake since this would be a meeting with The Dow Chemical Company. Dennis

Dennis Deziel
Director, Federal Government Affairs
The Dow Chemical Company
500 North Capitol Street, NW Suite 200
Washington DC 20001
(202) 429-3420 (office) | (301) 385-1284 (mobile – **NEW!**)
E-Mail: DRDeziel@dow.com
<image006.png>

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Tuesday, October 02, 2018 3:05 PM
To: Deziel, Dennis (DR) <DRDeziel@dow.com>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: RE: Plastic Waste/Marine Debris Meeting Request

Thanks. I will be out of the office those two days but our OCSPP, OITA, and OLEM offices (cc'd) can meet with you folks on EPA actions including international ones.

From: Deziel, Dennis (DR) [mailto:DRDeziel@dow.com]
Sent: Tuesday, October 2, 2018 1:50 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Plastic Waste/Marine Debris Meeting Request

Ryan,

Finding solutions re plastic waste and marine debris is an important priority for Dow. We would love to collaborate with EPA in any way possible to address the issue. I will have a couple of executives in town on Oct 15-16 and I would love to meet with you and your leadership team, including Nancy Beck, Chad Macintosh and Steve Cook. Looking for 30 minutes if possible.

Thank you for your consideration. Dennis

Dennis Deziel

Director, Federal Government Affairs
500 North Capitol St NW, Suite 200, Washington, D.C. 20001
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WORLDWIDE PARTNER

Message

From: Williams, Brendan [Brendan.Williams@pbfenergy.com]
Sent: 10/9/2018 1:13:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Happy Post-Columbus Day

Ryan-

Hope all is well. I wanted to see if you had any time this week to touch base for 20 minutes or so? Need your advice on an issue, and it has NOTHING to do with the RFS! Please let me know if there is a good time to give you a ring.

Thanks!

Brendan Williams
Government Relations
PBF Energy
601 Pennsylvania Avenue, NW
Suite 900 South
Washington, DC 20004
O: (202) 434-8254
M: (703) 863-6825
brendan.williams@pbfenergy.com
www.pbfenergy.com

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Message

From: Claudia Hosky [claudia@fedinsidernews.com]
Sent: 10/15/2018 7:30:28 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Webinar Tomorrow on Data Analytics, 10/16, Complimentary, 1 CPE

INNOVATIONS IN DATA ANALYTICS FOR FINANCE
Complimentary Webinar, Tues 10/16, CPE Credit

Hi Ryan,

Join us **tomorrow** for a free training webinar on advances in analytical methods and underlying technologies that are helping government to improve quality, increase efficiency, and generate new insights.

This webinar will explore best practices that agencies are using to gain value from data analytics and key considerations to help design, implement, and utilize analytical tools in support of the finance function.

Attendees will receive a Training Certificate for 1 CPE credit from The George Washington University Center for Excellence in Public Leadership.

Complimentary Registration:
https://goto.webcasts.com/starthere.jsp?ei=1208905&tp_key=b6d87c56a4&sti=JangoB

ALTERNATE LINK:www.fedinsider.com or call 202-237-0300

WEBINAR TOPIC
Running the Numbers: How Data Analytics is Transforming Government Finance

DATE: Tomorrow, 10/16
TIME: 2:00 PM ET / 11:00 AM PT
DURATION: 1 Hour
CREDIT: 1 CPE from the George Washington University, CEPL
COST: Complimentary

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- **DOROTHY ARONSON**, CIO, NSF
- **TIM GRIBBEN**, CFO, SBA
- **MICHAEL WETKLOW**, Deputy CFO, NSF
- **MARK EASTON**, Deputy CFO, Comptroller, DOD
- **SAM HUGHES**, Consulting Leader, U.S. Federal Government Practice, EY
- **JASON MILLER**, (Moderator), Executive Editor, Federal News Radio 1500 AM and FederalNewsRadio .com

PRESENTED BY: FedInsider News, Federal News Radio, WTOP, The George Washington University CEPL, and EY

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Claudia M. Hosky
Publisher, FedInsider
Work: (202) 237-0300
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Message

From: Grimm, Tyler [Tyler.Grimm@mail.house.gov]
Sent: 10/12/2018 6:15:17 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Following up

Ryan,

Great chatting with you briefly yesterday. If you have a moment to continue the conversation, please give me a ring at your convenience. I've got a meeting from 3:15 that should last about an hour but am otherwise free. The number is the same one you used yesterday – Ex. 6

Thanks.

Tyler Grimm
Deputy Chief of Staff
Congressman Darrell Issa (CA-49)
2269 Rayburn House Office Building
Phone: 202-225-3906

Message

From: Jim Massie [jmassie@massiepartners.com]
Sent: 10/16/2018 7:29:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: afternoon

Sorry to bug you. I have a Oklahoma question. Can we talk later today?

Jim Massie

Massie Partners
(202) 841-8037
jmassie@massiepartners.com
massiepartners.com

Message

From: Claudia Hosky [claudia@fedinsidernews.com]
Sent: 10/17/2018 2:30:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Webinar Tomorrow on Agency Cloud Risk, 10/18, Complimentary, 1 CPE

AGENCY CLOUD RISK
Complimentary Webinar, THURS 10/18, CPEs

Hi Ryan,

According to Gartner, nearly half of government organizations are actively using cloud services with double-digit growth on the horizon. However, poor or incomplete cloud implementation can cause chaos in both the cloud and the non-cloud worlds, leaving government employees and citizens poorly served, and putting data and the network at risk.

This vital webinar will explore methods to secure applications, manage data, and lower agency network risk while embracing a multi-cloud approach to secure agency IT modernization.

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ALTERNATE LINK: www.fedinsider.com or call 202-237-0300

WEBINAR TOPIC
The Truth in Cloud: Exposing the Risks to Government

DATE: THURS, 10/18
TIME: 2:00 PM ET / 11:00 AM PT
DURATION: 1 Hour
CREDIT: 1 CPE from the George Washington University, Center for Excellence in Public Leadership
COST: Complimentary

DISTINGUISHED SPEAKERS
- **KSHEMENDRA PAUL**, Cloud Action Officer, Deputy Director, Strategy & Mission, Information Sharing & Services Office, DHS
- **JONATHAN ALBOUM**, CTO, Public Sector, Veritas; former CIO of USDA

PRESENTED BY: FedInsider News, The George Washington University CEPL, DLT and Veritas

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Claudia M. Hosky
Publisher, FedInsider
Work: (202) 237-0300
Claudia@hosky.com

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Message

From: Christopher Irwin [Ex. 6]
Sent: 10/16/2018 7:21:55 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Vizian, Donna [Vizian.Donna@epa.gov]
Subject: Fw: Dr. Ruth Etzel

----- Forwarded Message -----
From: Christopher Irwin [Ex. 6]
To: wheeler.andrew@epa.gov <wheeler.andrew@epa.gov>
Sent: Tuesday, October 16, 2018 03:16:35 PM EDT
Subject: Dr. Ruth Etzel

What is wrong with you, Andrew Wheeler, to direct Ryan Jackson to suspend Dr. Ruth Etzel ? Dr. Ruth is a highly respected pediatrician who is trying to protect children (remember Flint and other cities?). She should be reinstated, with apologies, immediately. Your reason being it is too onerous (expensive) to prevent environmental dangers from affecting children. Do you not have children or grand children who are worth protecting ? What about the citizens you are required by law to protect? Do the job the citizens of this great country pay you for and reinstate Dr. Ruth immediately, or resign rather than follow this administrations dangerous directives!

Sincerely,
Christopher Irwin

Message

From: Wiegard, Pierce (Sullivan) [Pierce_Wiegard@sullivan.senate.gov]
Sent: 10/11/2018 3:26:24 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE:

Thanks Ryan! I will be sure to let my boss know the reason for the Administrator's absence and pass along your sentiments.

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 11:05 AM
To: Wiegard, Pierce (Sullivan) <Pierce_Wiegard@sullivan.senate.gov>; Dudis, Dan (Whitehouse) <Dan_Dudis@whitehouse.senate.gov>
Subject:

Congratulations on the signing of the Save our Seas Act today. Administrator Wheeler is on travel today but would otherwise attend. He mentioned your bill at the G7 environmental ministers meeting in Halifax a month ago. Be sure to get a pen. The Sharpie's are pretty unique.

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: sreece@depausa.org [sreece@depausa.org]
Sent: 10/11/2018 5:42:38 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: 'Pete Regan 2/26/70' [pregan@depausa.org]
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING

Mr. Jackson,
Please see below for attendee list.

LAST NAME	FIRST	COMPANY
Barbee	Sam	Illinois Oil & Gas Association (IOGA)
Bell	Brock	Sigma Solutions
Hamm	Harold	DEPA
Hulsey	Blu	Continental Resources
Jones	Preston	D&B Oilfield Services
Jordan	Kenny	Association of Energy Service Companies
Kelley	Roger	DEPA
Ledbetter	Brian	Sigma Solutions
Maly	Jarrod	D&B Oilfield Services
Montalban	Patrick	Mountainview Energy LTD
Mullennix	Berry	
Muncrief	Rick	WPX Energy
Ness	Ron	North Dakota Petroleum Council

Olson	Alan	Montana Petroleum Association
Reece	Sarah	DEPA
Regan	Peter	DEPA
Schremmer	Dick	Bear Petroleum, LLC
Simmons	Jerry	DEPA
Thomas	Kristin	Continental Resources
Toney	Fred	Calfrac Well Services
Wickstrom	Charles	Iron Hawk Energy Group, LLC
Wilson	Jeff	WPX Energy
Zierman	Rock	California Independent Petroleum Association

Warmest regards,
Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

From: sreece@depausa.org <sreece@depausa.org>
Sent: Thursday, October 11, 2018 12:27 PM
To: 'Jackson, Ryan' <jackson.ryan@epa.gov>
Cc: 'Pete Regan 2/26/70' <pregan@depausa.org>
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING

Mr. Jackson,
We are looking forward to having you at the reception. Please see below for a list of committed attendees. We would like you to make remarks at 8:45am on Monday, November 5th after Mr. Hamm welcomes everyone to the Board Meeting. Will this work well for you? We will have breakfast for you before you speak. Please see attached agenda.

Warmest regards,
Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 11:46 AM
To: sreece@depausa.org
Cc: Pete Regan 2/26/70 <pregan@depausa.org>
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING

Yeah, I'm actually planning to attend in place of Administrator Wheeler.

I'll likely arrive Sunday evening maybe in time for the reception. Can you shoot me the expected attendees and when you would want me to make remarks?

From: sreece@depausa.org [mailto:sreece@depausa.org]
Sent: Thursday, October 11, 2018 12:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Pete Regan 2/26/70 <pregan@depausa.org>
Subject: NOV. 4 & 5: DEPA FALL MEETING

Dear Mr. Jackson,

The Domestic Energy Producers Alliance (DEPA) invites you to join us for our Fall Board Meeting on November 4th and 5th.

We are hosting the top 50 leaders from the domestic oil and gas industry—who represent 31 independent organizations—at the Brown Palace in Denver, CO. Please find the event schedule below.

Sunday, November 4th

2:05 PM Broncos vs. Texans game at the Sports Authority Field at Mile High

6 - 9 PM Reception at the Brown Palace

Monday, November 5th at Noble Energy

7:30 AM Breakfast

8:30 - 9:30 AM DEPA Board Meeting

9:30 AM - 12 PM Meetings

We would be honored if you could be the keynote speaker at one our scheduled times shown above. However, we can also accommodate a time convenient for you.

Thank you for your consideration,

We hope you will be able to join us.

Sincerely,

Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

Message

From: Lorman Education [customerservice@lormaneducationservices.com]
Sent: 10/10/2018 6:03:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Water Well Design and Site Selection

- Webinar Invitation -

Water Well Design and Site Selection

OCTOBER
23

Gain an understanding of the causes of poor well performance and the approaches used to prevent or correct poor well performance.

Date: October 23
Time: 1:00 pm EST
Duration: 90 Minutes
Credit: AIA, ENG, AICP

Register Now >

Problems with well performance are usually preventable, often start with well construction and development, and are then exacerbated by water quality conditions, well operation and rehabilitation efforts. Discuss the key factors affecting well performance including well design, initial screen development, biological and mechanical plugging, and well rehabilitation methods. An asset management based approach is described that helps prioritize maintenance decisions and long term well field operation.

Over the past several years there has been significant research done worldwide related to optimizing well performance. This research has included looking at the mechanisms involved with biological and mechanical plugging of aquifers, and the effectiveness of various rehabilitation technologies. The topic will also discuss several studies in Europe that looked at the mechanisms associated with poor well performance and innovative approaches being used to prevent or correct poor well performance.

Learning Objectives:

- You will be able to discuss well design and construction.
- You will be able to identify pros and cons of development options.
- You will be able to explain well rehabilitation.
- You will be able to review recent studies related to improving and maintaining well performance.

Course Presented By: Lorman Education Services

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Lorman Education Services | 2510 Alpine Rd. | Eau Claire, WI | 54703

This commercial email was sent to jackson.ryan@epa.gov. Unsubscribe. Call 1-866-352-9539 for assistance.

Message

From: Goeas, Lisa (Ernst) [Lisa_Goeas@ernst.senate.gov]
Sent: 10/10/2018 9:24:17 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Good morning

Ryan - I'm so sorry I missed your call yesterday - I get terribly spotty reception on my cell phone in the office. I really appreciate your call and the info.

Hope you are well!

Thanks,

Lisa

Lisa Goeas
Chief of Staff

Office of Senator Joni Ernst (IA)
111 Russell Senate Office Building
Washington, DC 20510

202 224-6313 – office
202 257 4624- mobile

-----Original Message-----
From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 9, 2018 9:52 AM
To: Goeas, Lisa (Ernst) <Lisa_Goeas@ernst.senate.gov>
Subject: Re: Good morning

Yes. Will you shoot me your cell?

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

> On Oct 9, 2018, at 9:47 AM, Goeas, Lisa (Ernst) <Lisa_Goeas@ernst.senate.gov> wrote:
>
> Hey Ryan...I'm not getting any info from White House on E15 announcement today. Do you have anything you can share?
>
> Thanks,
>
> Lisa
>
> Sent from my iPhone

Message

From: Jim Massie [jmassie@massiepartners.com]
Sent: 10/18/2018 7:43:33 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: sorry to bug you

Can I give you a call?

Jim Massie

Massie Partners
(202) 841-8037
jmassie@massiepartners.com
massiepartners.com

Message

From: Improving Customer Experience in Gov Workshop [PotomacForum@GovCustomerExperience.org]
Sent: 10/15/2018 2:31:42 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Register for Next Wed - Oct 24th - Improving Customer Experience Workshop & Meeting the OMB Goals

Register Today for Oct 24th Training for Government -
Workshop to Improve Customer Experience
Please Forward to Others in Your Agency -

Improving Government Customer Experience: Meeting the Administration's Cross Agency Performance Goals Training Workshop

How to measure, modify, and improve the experience for government's customers: Best Practices from the Public and Private Sectors

Wednesday October 24, 2018
Willard InterContinental Hotel
Washington, D.C.

Workshop For Government Employees Only
No Press or Industry Permitted

Sponsored by:
Potomac Forum, Ltd
info@PotomacForum.org
(703) 683-1613

Additional Speakers - Just Announced:
Rosettta Lue

Senior Contact Center Advisor
Office of Information & Technology (OIT)
Department of Veterans Affairs

Marcy Jacobs
Executive Director
Digital Service
Department of Veterans Affairs

Speakers:

Anahita Reilly
Chief Customer Officer
General Services Administration

Karen Evan
Assistant Secretary for the Office of Cybersecurity,
Energy Security, and Emergency Response (CESER)
Department of Energy
Former Federal Chief Information Officer (invited)

Robert Shea
Principal
(Former OMB Associate Director for Administration and
Government Performance)

Martha Dorris
Principal
Dorris Consulting International
(Former GSA Director of Strategic Programs,
Integrated Technology Service)

Zachary Trojak
Principal - Public Sector
Medallia
(Customer Experience Organization to create a world
where companies are loved by customers and employees)

(Additional Government Speakers to be Announced Soon)

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from the Same Government Office

Special "Send-A-Team" Registration Fees

For Multiple Students from the Same Government Office

Workshop Limited to Government Employees Only
(Federal, State and Local)
Press or Industry are NOT Permitted
to Encourage Candid Discussion

Registration and Information:

Call: (703) 683-1613
Info@PotomacForum.org

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Thank You.

This email was sent to: jackson.ryan@epa.gov

Go here to leave this mailing list or modify your email profile.
We respect your right to privacy. View our policy.

Potomac Forum, Ltd.

This email was sent by: **Potomac Forum, Ltd.**
2800 Eisenhower Avenue , Alexandria , Virginia, 22314 , USA

Message

From: Brian Wynne Ex. 6
Sent: 10/9/2018 12:31:47 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Brian Wynne- Drew Wynne's brother (READ)

Yesterday Ex. 6 That moment has re-energized me and I'm now motivated more than ever to finish the job.

I know what you all are doing and it's not cute or funny. You all are purposefully delaying action to try and keep up the "deregulation" approach as directed by your boss. I have the emails from the previous administration, I have meeting notes, I have been talking to people in the agency (that you don't know about), I know what Mulveney and OMB said, and I will tie it all together with FOIA requests. You can get right now and finalize the rule, or you can explain it in hearings to the 116th congress.

My family is one of service and sacrifice, we have given and continue to give to this country. Your behavior is shameful.

Ex. 6

Ex. 6 All of that is burned in my soul, don't think for a second I will ever forget. Promises made, promises kept. Do your job!

Brian Wynne

Message

From: POLITICO Pro [politicopro@politico-pro.com]
Sent: 10/16/2018 4:03:57 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: POLITICO California Pro. New from POLITICO Pro

POLITICOPRO

Hi Ryan,

California: the largest U.S. state, and on its own the fifth largest global economy. What happens in California impacts the rest of the world.

Under Governor Jerry Brown, state-level policy decisions on a range of issues like the environment, immigration and technology have sparked national debate and informed federal outlook. Will this trend continue with the new administration?

Launching November 7, POLITICO California Pro's dedicated reporting team provides detailed insight and analysis on the new governor's administration, key policy developments and political trends. Pre-register for the Newsletter today to stay one step ahead of California politics and policy.

Pre-register for the Newsletter

Do you know anyone who might be interested in California coverage? Forward to a friend.

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Message

From: sreece@depausa.org [sreece@depausa.org]
Sent: 10/11/2018 5:27:06 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: 'Pete Regan 2/26/70' [pregan@depausa.org]
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING
Attachments: 2018 FALL BOARD MEETING AGENDA.jpg

Mr. Jackson,
We are looking forward to having you at the reception. Please see below for a list of committed attendees. We would like you to make remarks at 8:45am on Monday, November 5th after Mr. Hamm welcomes everyone to the Board Meeting. Will this work well for you? We will have breakfast for you before you speak. Please see attached agenda.

Warmest regards,
Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 11:46 AM
To: sreece@depausa.org
Cc: Pete Regan 2/26/70 <pregan@depausa.org>
Subject: RE: NOV. 4 & 5: DEPA FALL MEETING

Yeah, I'm actually planning to attend in place of Administrator Wheeler.

I'll likely arrive Sunday evening maybe in time for the reception. Can you shoot me the expected attendees and when you would want me to make remarks?

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Sent: Thursday, October 11, 2018 12:42 PM
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Cc: Pete Regan 2/26/70 <pregan@depausa.org>
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2:05 PM Broncos vs. Texans game at the Sports Authority Field at Mile High

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Monday, November 5th at Noble Energy

7:30 AM Breakfast

8:30 - 9:30 AM DEPA Board Meeting

9:30 AM - 12 PM Meetings

We would be honored if you could be the keynote speaker at one our scheduled times shown above. However, we can also accommodate a time convenient for you.

Thank you for your consideration,

We hope you will be able to join us.

Sincerely,

Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

DEPA DOMESTIC ENERGY PRODUCERS ALLIANCE 2018 FALL BOARD MEETING

MEETING AGENDA

Sunday, November 4th

The Brown Palace	*321 17th St., Denver, Co 80202*
12:00 – 1:00 PM	Registration & Game Ticket Pickup *Lobby*
1:00 PM	Meet for Broncos Game Transportation *Lobby*
2:05 PM	Denver Broncos vs Houston Texans Kickoff *Broncos Stadium*
6:00 PM	Cocktails & Hors d'oeuvres *Brown Palace Club*
9:00 PM	Conclusion

Monday, November 5th

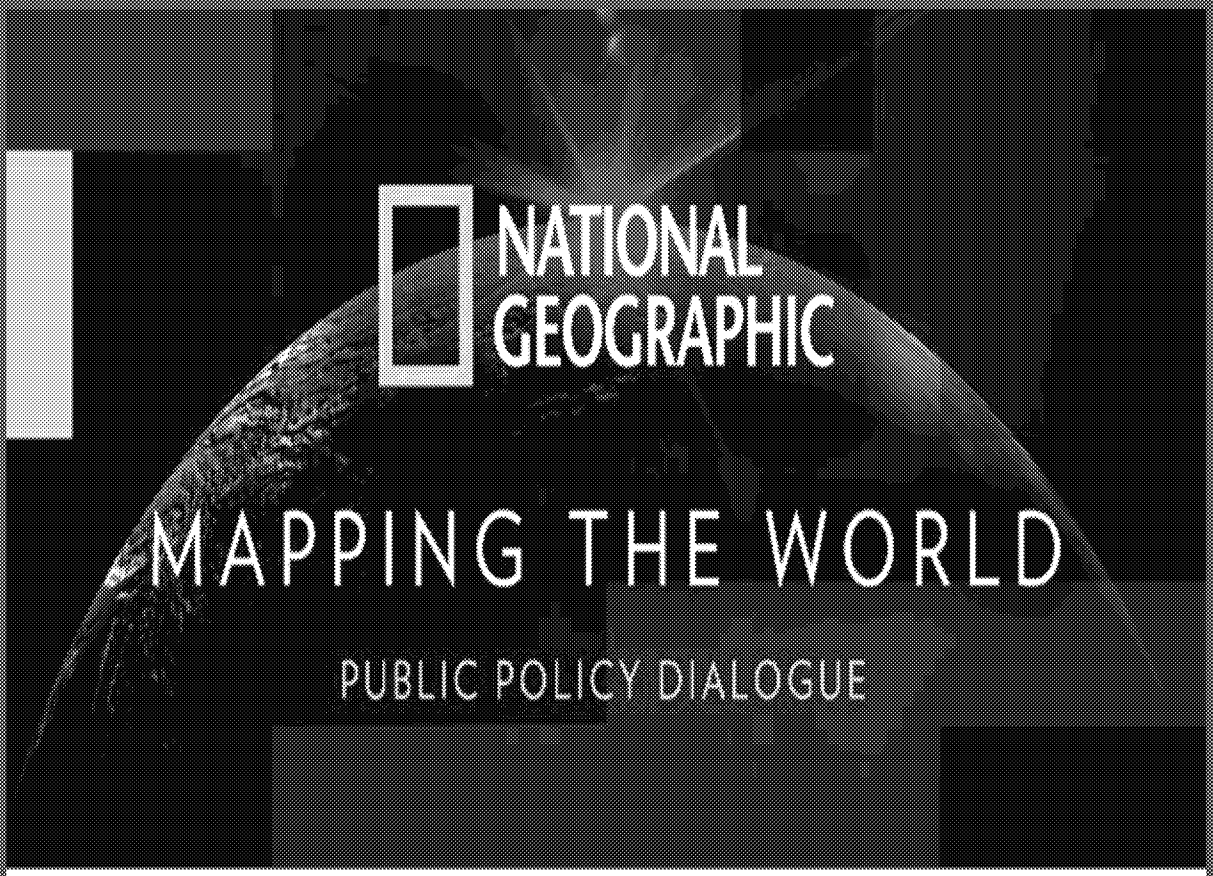
Noble Energy	*1625 Broadway Suite 2200, Denver CO 80202*
7:00 AM	Meet in lobby to walk to Noble Energy
7:30 – 8:30 AM	Breakfast
8:30 AM – 9:30 AM	DEPA Fall Board Meeting
9:30 AM – 12:00 PM	Planning Session
12:00 PM	Conclusion

Message

From: National Geographic [info@natgeoforums.org]
Sent: 10/3/2018 6:30:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: You're Invited: Forum on Nature Preservation

October 16: National Geographic Forum on Nature Preservation

No Images? Click here



YOU'RE INVITED TO A FORUM ON

WILDLIFE & WILD PLACES

NATURE PRESERVATION

Please join National Geographic Society President and CEO **Tracy Wolstencroft** for a conversation about the critical role of public lands in the United States. The forum will feature National

Geographic Explorer **Arthur Middleton** and **Senator Cory Gardner** in a dialogue around why these lands matter to the wildlife and wild places Americans value and what we need to do to strengthen and preserve them for future generations.

TUESDAY, OCTOBER 16 | 3:00 - 4:30 PM

Library of Congress, Thomas Jefferson Building - Members Room

10 First Street, SE | Washington, DC 20540

RSVP to info@natgeoforums.org

Space is limited | Invitations are transferable within office

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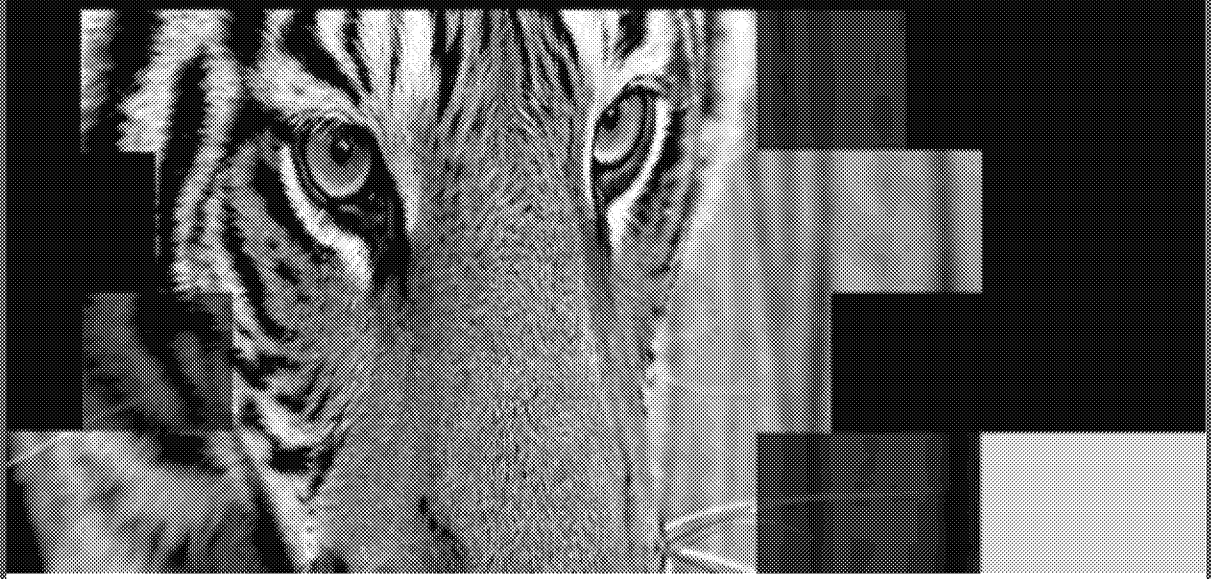
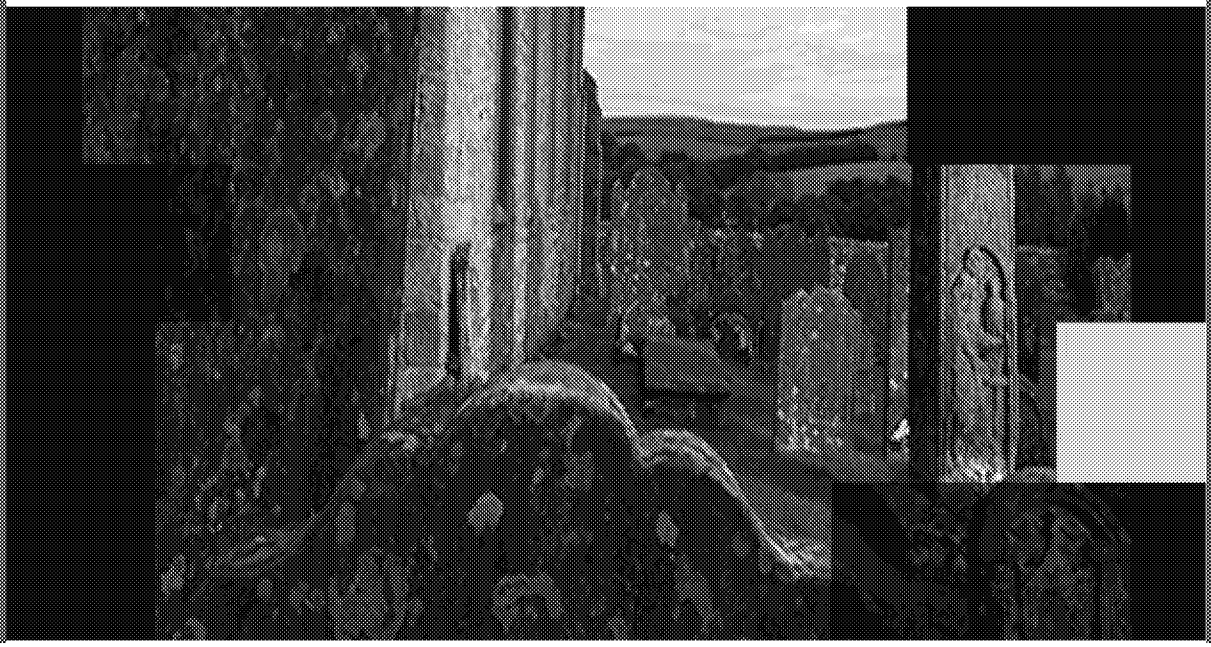


WILDLIFE & WILD PLACES

OUR CHANGING PLANET



THE HUMAN JOURNEY

NATIONAL GEOGRAPHIC

1145 17TH ST NW | WASHINGTON DC 20036

National Geographic Society

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Message

From: IEDC [iedcnews@iedconline.org]
Sent: 10/11/2018 11:02:37 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Annual Conference is over, but IEDC has a lot left to offer in 2018!

EDUCATION COURSES

Business Retention and Expansion
October 18 - 19, Toronto, ON

Entrepreneurial and Small Business Development Strategies
October 25 - 26, Chapel Hill, NC

Real Estate Development and Reuse
November 1 - 2, Phoenix, AZ

Managing Economic Development Organizations
November 8 - 9, Baltimore, MD

Economic Development Marketing and Attraction
December 6 - 7, Atlanta, GA

These courses meet the professional development requirements for the Certified Economic Developer (CEcD) exam. CEcDs earn

recertification credits for participating.

Certified Economic Developer (CEcD) Exam
December 1 - 2, Denver, CO

WEBINARS

FUTURE READY WEBINAR SERIES

How Economic Developers are Thinking about the Future - Visioning
Thursday, October 11, 2 - 3:30 p.m. ET Today!

The Future of Infrastructure
Thursday, October 18, 2 - 3:30 p.m. ET

The Future of Work
Thursday, October 25, 2 - 3:30 p.m. ET

The Power and Possibility of the Opportunity Zone Investment Strategy
Tuesday, October 30, 2:30 - 4 p.m. ET

The Future of Technology Development and Commercialization
Thursday, November 1, 2 - 3:30 p.m. ET

The Future of Economic Development Practices
Thursday, November 8, 2 - 3:30 p.m. ET

Becoming Accredited: A Conversation on the AEDO Program
Thursday, November 15, 2:30 - 4 p.m. ET Free

The Inside Scoop on the Data Businesses Want to See
Tuesday, December 4, 2:30 - 4 p.m. ET Free

Early bird registration is now open for the 2019 IEDC Leadership Summit
January 27 - 29, Fort Lauderdale, FL

International Economic Development Council

IEDC is a non-profit, non-partisan membership organization serving economic developers. With more than 5,000 members, IEDC is the largest organization of its kind. Economic developers promote economic well-being and quality of life for their communities by creating, retaining and expanding jobs that facilitate growth, enhance wealth and provide a stable tax base. From public to private, rural to urban and local to international, IEDC's members are engaged in the full range of economic development experience. Given the breadth of economic development work, our members are employed in a wide variety of settings including local, state, provincial and federal governments, public-private partnerships, chambers of commerce, universities and a variety of other institutions. When we succeed, our members create high-quality jobs, develop vibrant communities, and improve the quality of life in their regions.

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Phone: 202.223.7800

Official Hashtags: #IEDC #EconDev

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Message

From: Holland, Luke (Inhofe) [Luke_Holland@inhofe.senate.gov]
Sent: 10/11/2018 11:03:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Wright, Jennie (Inhofe) [Jennie_Wright@inhofe.senate.gov]
Subject: RE:

Sure thing. And thank you!

-----Original Message-----
From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 7:02 PM
To: Holland, Luke (Inhofe) <Luke_Holland@inhofe.senate.gov>; Wright, Jennie (Inhofe) <Jennie_Wright@inhofe.senate.gov>
Subject:

Would you mind forwarding me wrap up for tonight?

Congrats on recess starting.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 10/2/2018 12:48:20 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: letters

Stack testing complete. Preliminary results show non detectable. Final report being prepared, likely completed next week. Will share prelim data shortly.

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

---

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Tuesday, October 02, 2018 8:12 AM
To: Lynn L. Bergeson
Subject: Re: letters

No problem. Do you know when the stack testing will be completed?

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 1, 2018, at 6:33 PM, Lynn L. Bergeson <lbergeson@lawbc.com> wrote:

> Thanks!
>
> **LYNN L. BERGESON**
> BERGESON & CAMPBELL PC
> 2200 Pennsylvania Avenue, N.W. Suite 100W |Washington, D.C. 20037
> T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 lawbc.com
>
> On Oct 1, 2018, at 5:26 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> Ryan Jackson
> Chief of Staff

U.S. Environmental Protection Agency
(202) 564-6999

<Duckworth.pdf>
<Durbin.pdf>
<Foster.pdf>
<Signed Response to Hon. Bruce Rauner, Governor of IL re Willowbrook -- OAR-18-001-1156.pdf>
<Signed Response to Hon. Peter Roskam -- OAR-18-001-1156.pdf>
<Signed Response to Hon. Daniel Lipinski re Willowbrook -- AL-18-001-1090.pdf>

Message

From: LLC Ex. 6
Sent: 10/8/2018 3:05:02 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Fwd: Planet has 12 years to stem catastrophic climate change, experts warn - CNN

---------- Forwarded message ---------
From: **LLC** <Ex. 6>
Date: Mon, Oct 8, 2018 at 11:04 AM
Subject: Fwd: Planet has 12 years to stem catastrophic climate change, experts warn - CNN
To: <wheelor.andrew@epa.gov>

We have got to take this seriously
---------- Forwarded message ---------
From: **LLC** <Ex. 6>
Date: Mon, Oct 8, 2018 at 11:03 AM
Subject: Fwd: Planet has 12 years to stem catastrophic climate change, experts warn - CNN
To: <feedback@ios.doi.gov>

We have got to take this seriously. We have to stop pretending it's not happening.
---------- Forwarded message ---------
From: **LLC** <Ex. 6>
Date: Mon, Oct 8, 2018 at 9:52 AM
Subject: Planet has 12 years to stem catastrophic climate change, experts warn - CNN
To: <Ex. 6>

Planet has 12 years to stem catastrophic climate change, experts warn - CNN

https://apple.news/Albo11YkZRU-zcQsbSCDwFg

Message

From: Improving Customer Experience Training Workshop [training@PotomacForumEvent.org]
Sent: 10/10/2018 5:30:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Improving Customer Experience Workshop

Additional Speakers Announced:
Workshop to Improve Customer Experience
Please Forward to Others in Your Agency -

Improving Government Customer Experience: Meeting the Administration's Cross Agency Performance Goals Training Workshop

How to measure, modify, and improve the experience for government's customers: Best Practices from the Public and Private Sectors

Wednesday October 24, 2018
Willard InterContinental Hotel
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info@PotomacForum.org
(703) 683-1613

Additional Speakers - Just Announced:
Rosettta Lue
Senior Contact Center Advisor
Office of Information & Technology (OIT)
Department of Veterans Affairs

Marcy Jacobs
Executive Director
Digital Service

Department of Veterans Affairs

Speakers:

Anahita Reilly
Chief Customer Officer
General Services Administration

Karen Evan
Assistant Secretary for the Office of Cybersecurity, Energy Security, and Emergency Response (CESER)
Department of Energy
Former Federal Chief Information Officer (invited)

Robert Shea
Principal
(Former OMB Associate Director for Administration and Government Performance)

Martha Dorris
Principal
Dorris Consulting International
(Former GSA Director of Strategic Programs, Integrated Technology Service)

Zachary Trojak
Principal - Public Sector
Medallia
(Customer Experience Organization to create a world where companies are loved by customers and employees)

(Additional Government Speakers to be Announced Soon)

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Press or Industry are NOT Permitted

to Encourage Candid Discussion

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This email was sent by: **Potomac Forum, Ltd.**
2800 Eisenhower Avenue , Alexandria , Virginia, 22314 , USA

Message

From: Braden, Parish [Parish.Braden@mail.house.gov]
Sent: 10/2/2018 4:31:42 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE:

Ryan- same here. Until this week I hadn't had a minute to breathe. I called you last but I planned to call you this week. I am flexible today if you are able to hop on the phone.

-----Original Message-----
From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, October 2, 2018 11:32 AM
To: Braden, Parish <Parish.Braden@mail.house.gov>
Subject:

Parish, I'm sorry for the delay. I wanted to get back with you but I couldn't remember who was it with phone tag.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

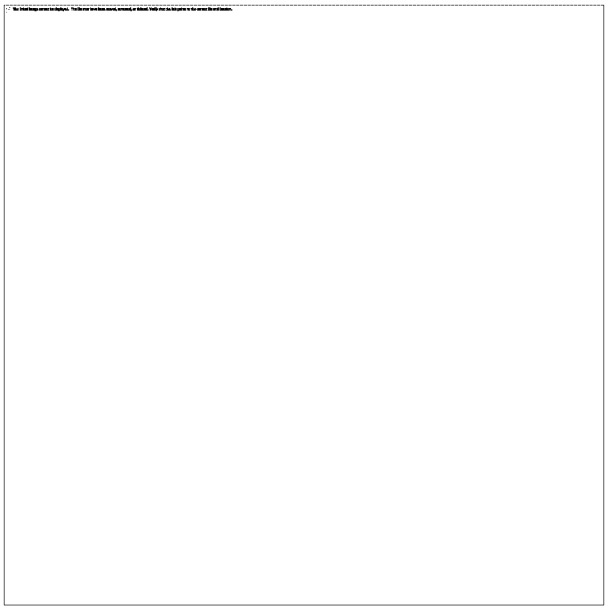
Message

From: Green Guy Media [talkwithgreenguy@gmail.com]
Sent: 10/3/2018 2:06:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: ♻ Green Guy Media Newsletter (IGEL) Institute for Georgia Environmental Leadership, Chair, Stacey Isaac Berahzer

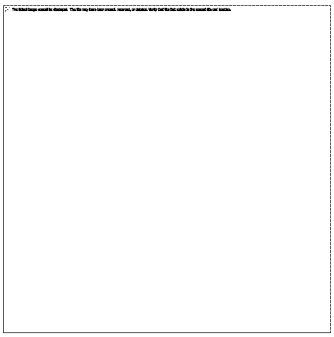
♻ Green Guy Media Newsletter (IGEL) Institute for Georgia Environmental Leadership, Chair, Stacey Isaac Berahzer

Your 1# source for radio interviews and podcasts in the Sustainability Community
Volume 88 - October 3, 2018

View this email in your browser



Talk with Green Guy Show!
Sunday, October 7th, 9-10am EST.



Chair, Stacey Isaac Berahzer and Board Member, Andrea Pinabell, Institute for Georgia Environmental Leadership (IGEL) are in studio talking about their organization that educates and trains a diverse network of sustainability professionals to become environmental leaders to help resolve Georgia's environmental

Green Guy broadcasts live every Sunday, **9 -10 am,EST:**

challenges now and in the future.

WGST AM 640

- iHeartRadio

Coming Events

Green Guy Media EcoEvent of the Week:
October 4th, Center for Hard to Recycle Materials
CHARMing Evening Fundraiser
livethrive.org/fundraiser

October 1st-31st, Atlanta Bike Challenge
lovetoride.net/atlanta

October 5th, Southface
Sustainable Atlanta Roundtable Meeting
southface.org/events

October 6th, Woodlands Garden
Fairy Stories in the Woods
bit.ly/2DRegbq

October 6-7th, National Solar Tour
solarunitedneighbors.org

October 12th, USGBC Georgia
Regenerative Design Summit
bit.ly/2N80mW3

October 13th, New Energy Guy
Multi-Candidate Fundraiser
bit.ly/2OulztG

- Download the Green Guy app @ Google Play and App Store

Stay Connected!

Celebrate the life and legacy of Ray C.Anderson @ Serenbe October 14th register here:
raycandersonfoundation.org/rayday

October 25th, Atlanta Metro Chamber E3 Awards
atlantae3awards.com

Take the Pledge to save water at home
mydropcounts.org/pledge-to-conserve/take-the-pledge

Take the Pledge to save water at work
mydropcounts.org/pledge-to-conserve/pledge-at-work

More about The Green Guy:

- Did you miss last week's show? Listen to this and other podcasts.
- Refer a friend to receive this newsletter.
- Want to be a guest or have a show topic?
- Want sponsorship information?

- Book Green Guy for your event.

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Message

From: Kundinger, Kelly [kundinger.kelly@epa.gov]
Sent: 9/18/2018 3:46:54 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Nishida, Jane [Nishida.Jane@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]; Besch, Brianna [besch.brianna@epa.gov]; Dieu, Martin [Dieu.Martin@epa.gov]
CC: Ex. (7)(C) and (7)(F)
TibbettsRE@state.gov; Ex. 6
Subject: Canadian Bilateral Meeting

All -

A quick update - our bilateral meeting with Canada this evening will now take place at Roy's in the Westin at the conclusion of the Welcome Reception at the Citadel.

We will have a table reserved for this meeting.

Please let me know if you have any questions.

Thanks,

Kelly

Message

From: COOP & Emergency Planning in Gov Workshop XXVI [COOP@GovEmergencyPlanning.org]
Sent: 9/17/2018 5:35:42 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Is Your Office Prepared for the Next Hurricane or Other Disaster?

Is Your Agency Prepared for the Next Hurricane or Other Event?
Plan Now!
Gov COOP Training - Our 26th Session of Proven, Successful Workshop -
Please Review & Forward to Others In Your Organization Responsible for Developing, Reviewing or Oversight of Emergency Planning

Continuity of Operations (COOP) in Government Training Workshop XXVI

(the 26th offering of this highly successful training)

Preparing Your Agency for a Disaster or Emergency

Willard InterContinental Hotel
Washington, D.C.

Two Full Days of Intensive Training
September 25-26, 2018
(Tuesday & Wednesday)

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Government Speakers

Keynote: Director Richard M. Chávez
Director, Office of Operations Coordination, DHS

U.S. Government Senior Executive Continuity Coordinator
Reporting Directly to Secretary of DHS
--
Veronica (Roni) M. Glass
Deputy Director, Continuity Division
Office of Operations Coordination
DHS
--
Kenneth Briscoe
Chief, Readiness Branch
Continuity Division
Office of Operations Coordination
DHS
--
Calvin W. Turner, Jr.
Director, National Finance Center, USDA
(NFC is the "Poster Child" for Data Center Relocation & Reconstitution)

--
Joe Douglas, ABCP
Continuity Program Manager, USITC
--

Overview:
Government and Industry Leaders Present Practical Solutions to Government Continuity of Operations Requirements.

This is a "How To" workshop "with proven instructors and guest speakers. Rated as "Excellent" the previous 25 workshop sessions!

Overview:

- *Hurricane season is now through October. With last year's series of natural disasters in Texas, Louisiana, Puerto Rico, Virgin Islands, and the crippling winter storms in the Northeast, is your organization fully prepared to cope with a catastrophic event?*

- *Is your preparation adequate to maintain continuity of your government functions?*

- *Learn from others including the Director of the Department of Agriculture National Finance Center whose proven leadership successfully implemented a COOP plan and continued mission essential functions during a hurricane that destroyed his facility.*

- *Learn New COOP Requirements, Federal Government Policy, Best & Proven Practices and what they mean for your organization.*
- *The Federal Government's continuity requirements are currently*

being updated and this workshop will address new developments and how it will impact your organization.

- *New emphasis has been placed on Federal Career and Newly Appointed Leadership to insure continuity in all mission aspects.*

- *There will be no excuses for lack of performance in the event of an emergency. Your agency leadership is more dependent than ever on its COOP personal.*

Demonstrated Commitment to Value and Performance: Potomac Forum is so confident that each and every attendee will be pleased with the information presented and its value to the government that Potomac Forum will provide a FULL RETURN OF REGISTRATION FEE for any student that does not find the two day workshop of value to their organization.

Consider this Workshop...

- ***If you have recently taken over an existing COOP Program and want to ensure that it is up to speed with the industry's best practices***
- ***If you have a COOP Program that is just taking off***
- ***If you have an established COOP Program and need to find new areas to quickly and easily improve***
- ***If you are looking for ways to make your COOP Program execute effectively on a "bad day"***
- ***If you are new to the Federal COOP environment***
- ***If you are in top leadership and need to learn more about what you are "on the hook" for within COOP***
- ***If you are not satisfied with your current agency COOP Plan or Policy***
- ***If you have new Agency Leadership and want to be better prepared to discuss COOP***
- ***If you want to discuss your COOP planning with other Government experts***
- ***If you want to "fine tune" or "Refresh" your knowledge of COOP and current thoughts, regulations, and guidance.***

... then this is the training for you to deliver a practical and sustainable COOP Program that complies with government regulations, best practices and effective management.

Who Should Attend:

- ***Program Managers responsible program operation***
- ***Senior Leadership who own the COOP Program***
- ***Senior Leadership who is Accountable for COOP Planning, Policy and/or Implementation***

- *Middle managers and staff tasked with the development and implementation of COOP*
- *Facility managers of Alternate and Emergency Relocation Sites*
- *IT Managers and Staff tasked with Information Systems Contingency Planning according to NIST SP800-34 Rev. 1 Guidance*
- *IGs, QA Managers and Staff*
- *Procurement Staff responsible for COOP Contracting*
- *Human Resource Managers and Supervisors responsible for Implementing COOP Telework and tracking personnel during emergencies*
- *State and Local Government COOP Planners*
- *Industry managers and staff supporting the government*

While this workshop is focused on federal COOP, many State and Local Governments have attended and found the information relevant and useful

For Information or Registration:
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or Call (703) 683-1613

Federal, State and Local Government & Industry Invited to Register
Press is NOT Invited to Attend to Permit Candid Discussion Among the Attendees

"Send-A-Team" Reduced Registration Fee

Comments from Previous COOP Workshop Government Attendees (from student evaluations)

Speakers were fantastic! Very informative and great interchange.
Keep up the good work. I will be back for other training.
Security Manager
Executive Office of the President

I learned a lot and gained so much knowledge about the subject.
I didn't know Telework is so important to support during COOP.
Thanks for support of Golv Agencies - Thanks for great speakers and various great subjects.

Enjoyed very much every instructors' presentations
Great breakfast, snacks and Lunch.
Telecom Specialist
Dept of State

One of the best workshops I have attended!

Great presenters.
Government Attendee

I thought the presenters were very compelling and that the information was well organized
GPO attendee

Great overall workshop! Loved all the presenters
Lead
Census Bureau
--***Well worth my time being out of the office for 2 days***
Financial Analyst
US Coast Guard

As the local level funds are limited. This workshop was self funded, but knowledge was outstanding that was worth the value to me in my position. Wonderful Networking opportunity
Emergency Management Coordinator
Sheriff's Office - Emergency Management
County in Wisconsin

"Send-A-Team" Registration Fees

Workshop Available to Government & Industry Partners

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Message

From: The Well News [press=thewellnews.com@bf01.hubspotstarter.net]
on behalf of The Well News [press@thewellnews.com]
Sent: 9/19/2018 1:21:00 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Straight from The Well for 9/19/18, presented by Stand with Parkland

Straight from The Well for 9/19/18, presented by Stand with Parkland

PRESENTED BY STAND WITH PARKLAND

Straight from The Well

Wednesday, September 19, 2018

For our last newsletter, a particularly frisky dolphin shut down a beach on the coast of France. What's today's news you'll never use? Read to the end to find out!

O'HALLERAN: LEADING THE FIGHT FOR RURAL AMERICA

Arizona congressman on his RV tour, connecting with constituents in one of the largest districts in the country, and his vision for a new policy agenda for rural America

Cruising down the Arizona highway in an RV, Congressman Tom O'Halleran, Chairman of the Blue Dog Rural Task Force, was on a mission over August recess: meeting as many- constituents as possible.

The first congressional district of Arizona is located in the northeastern part of the state, a vast and rural territory, with miles of open space separating small towns and communities. Home to the Grand Canyon, Sedona, and many resort communities, it is a beautiful and picturesque landscape. Read more.

HIMES ON THE CHALLENGES OF A CHANGING ECONOMY: IT'S A LEGACY PROBLEM, NOT A POLITICAL ONE

New Democrat Coalition Chair promotes "New Economic Opportunity Agenda" at Aspen Institute Future of Work Initiative

(Doug Duran/Bay Area News Group/TNS)

Leaders across the country at all levels of government and the private sector are working to implement innovative policies that address the challenges facing American workers every day. Chief among these is Representative Jim Himes (CT-4), along with his colleagues in the New Democrat Coalition (NDC), have begun promoting a new phase of the group's legislative agenda, "New Economic Opportunity Agenda: A Future that Works." Read more.

Bipartisan Group of Senators Move to Hold Chinese Telecom Firm ZTE Accountable in "Significant, Painful" Way

Following a controversial deal by the Trump Administration that lifted a ban on the export of U.S. parts and components to ZTE for seven years, a bipartisan group of senators introduced legislation that would force the Chinese state-directed telecommunications firm to comply with the probationary conditions of that deal. The ZTE Enforcement Review and Oversight (ZERO) Act would reinstate the ban, effectively putting the telecommunications giant out of business, if the Commerce Secretary cannot regularly certify ZTE's full compliance with the deal and with relevant U.S. export controls and sanctions laws. Read more.

About Stand with Parkland

MISSION STATEMENT

Stand with Parkland is a national organization representing American families. We are committed to advocating for practical public safety reforms focused on the safety of our children and staff at school, improved mental health support, and responsible firearms ownership. Personal responsibility and a desire for change are paramount to this effort, and it is the people involved at all levels that will make these goals a reality. Violence in our schools affects everyone. It is an American epidemic, and it is time that we all come together to do something about it.

TRUMP TARIFFS ARE HURTING ILLINOIS BUSINESSES - I'VE SEEN IT FIRSTHAND

The Sun Times reserves the right to reject any comment. Your ideas may have been reviewed, reviewed, or redrawn. Verify that the full problem has been sent to the Sun Times.

"President Trump's irresponsible trade war continues to spiral further out of control, and while the adverse effects are being felt by American businesses large and small, the ultimate victims of the President's erratic trade policies are likely to be American workers. It is turning out you cannot tweet your way out of a trade war," says Rep. Brad Schneider. Read More.

Candidate Profile: Brendan Kelly

With the help of a Navy ROTC scholarship, Brendan attended the University of Notre Dame, earning a degree in Government and International Relations and earning a commission as an officer in the United States Navy. Click here to watch Brendan's campaign video and learn more about him.

In The News

- Democrats and Republicans Clash Over Timing, Witness List for Kavanaugh Hearing
  By Jennifer Haberkorn

- Are Texans Feeling the Love for President Trump? A New Poll Shows a Split
  By Anna M. Tinsley

- China Fires Back at Trump With Tariffs on $60 Billion of Goods
  By Enda Curran, Andrew Mayeda and Jenny Leonard

2018 MIDTERMS: POLLING AND ADS

Representative Stephanie Murphy, who is seeking re-election in Florida's 7th District, released her second television ad of the 2018 campaign. Click here to watch the ad, which centers on Murphy's work to hold Congress accountable to the people.

EVERY DAY IS SOME DAY: NATIONAL TALK LIKE A PIRATE DAY

Source: National Day Calendar

AAAAARGH…It's time to brush up on your pirate-ese! September 19th is National Talk Like a Pirate Day.

• HOW TO OBSERVE?
Anchor's away! Get your sea legs and a barrel o' rum. Feel free to join in anytime with your own pirate-like phrases.

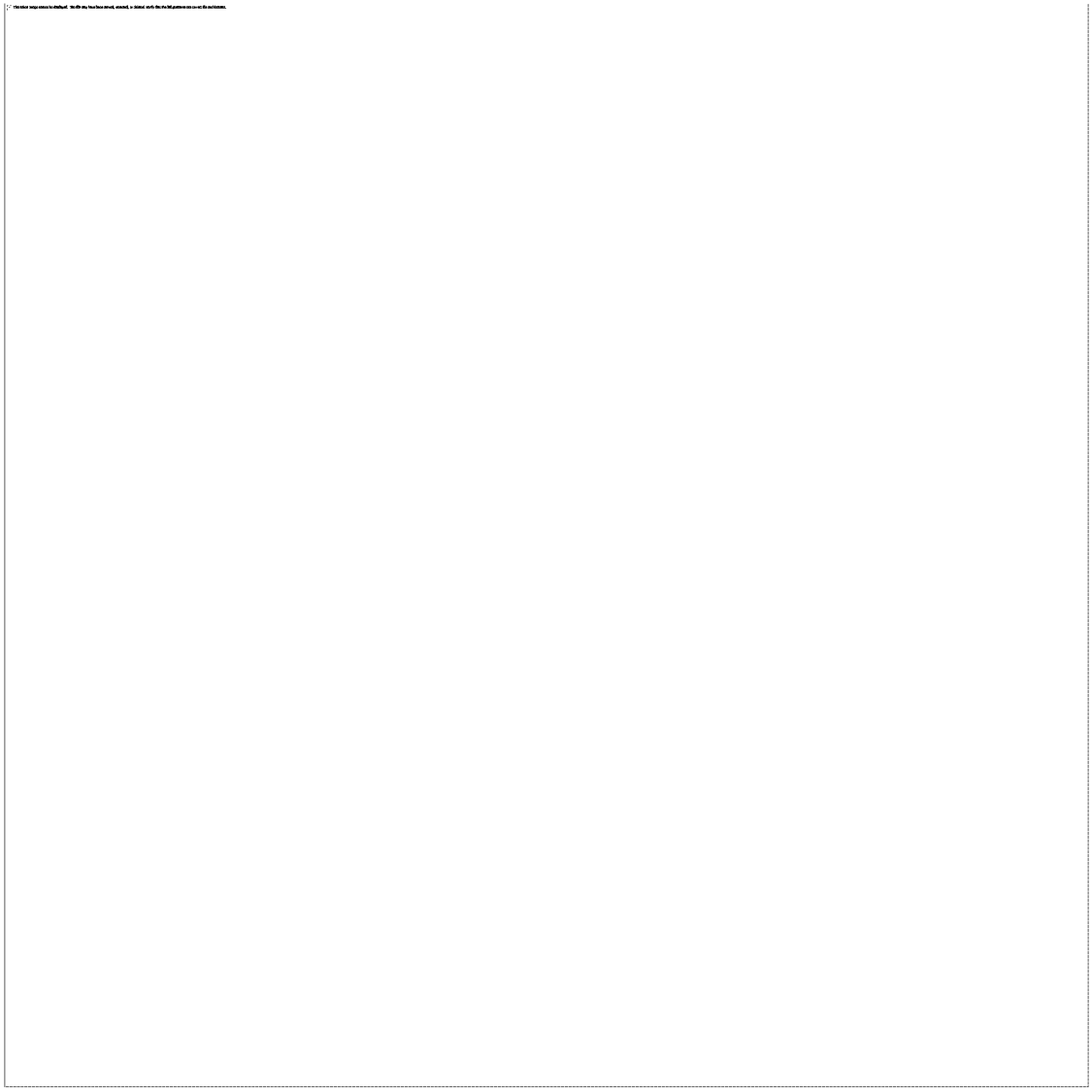
Our Big, Bold Plan — and Why Opportunity Can Win

Opinion by Lanae Erickson Hatalsky

"How do we beat Donald Trump?"

That's the question on the mind of every Democrat going into 2020. The scale of the threat posed by a Trump second term is unfathomable—from the Supreme Court and women's rights to the economy, the environment, and our country's national security. And Democrats need a bold, future-oriented narrative and agenda to meet that challenge. Recycled ideas from the past, either from the left or the center, just aren't going to cut it. Read more.

NEWS YOU CAN'T USE



(Russ Mitchell/Los Angeles Times/TNS)

How Someone Stole A Brand New Tesla Using Only A Phone (IFLScience!)

The Well News, 1440 G Street, NW, Washington, DC, 20005
Unsubscribe

Message

From: Agile Methodoligies for Government [Workshop@AgileTrainingForGov.org]
Sent: 3/22/2019 4:01:46 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Latest Agile Methods for Gov Workshop

Potomac Forum, Ltd.

Agile In Government Training Workshop X

A Practical Training Workshop on Implementing and Managing Agile Methodologies & How They Can be Effectively Used in Government

Starts Tuesday - March 26th

Training for Executives, Managers and Staff
- Gov and Industry Invited -
- No Press Permitted to Promote Candid Discussion -

Agile In Government Training Workshop X

A Practical Training Workshop on Implementing and Managing Agile Methodologies & How They Can be Effectively Used in Government

-

Tuesday, March 26, 2019

Training Location:
Willard InterContinental Hotel
1401 Pennsylvania Avenue N.W.
Washington D.C. 20004

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Keynote Speaker:
Robert D. Brown
EID Division Chief
Cloud Solutions Developer

U.S. Citizenship and Immigration Services (USCIS)

Government Speakers:
William "Bill" Pratt, Director of Strategic Technology Management, Office of the Chief Technology Office of the Chief Information Officer, Department of Homeland Security

Tia Norman, PMP, PMI-ACP, ICP-Agile Coach, DHS PM Level III, Branch Chief - Agile Maturity & Governance, Office of the Chief Technology Officer - Strategic Technology Management, Office of the Chief Information Officer, Department of Homeland Security

Robert (Bob) Maslyn, SPC, SA, CSPO, CSM, PMP,
GSA IT, Integrated Award Environment Program
General Services Administration

New Speaker Just Announced:

Dr. Marvourneen K. Dolor
Strategy and Operations
United States Digital Service
Department of Veterans Affairs

New Presentation Just Added:
Transforming legacy systems with Agile methods: Lessons Learned and Best Practices

What You Will Learn:

- **Focusing on delivering agency outcomes using Lean and Agile techniques**
- **Survey of tools and techniques used in moving from small teams to large programs with techniques such as:**
  - **Scrum @ Scale**
  - **SAFe**
  - **Agile Portfolio Management**
  - **Agile Roadmapping**
  - **Program Increment Planning**
- **Modern IT solutions utilizing DevSecOps, Agile engineering and Cloud solutions for delivering fast and with good quality**
- **Procuring and governing Agile programs and managing Agile Contracts**
- **How to use metrics for improving outcomes and**

managing risk
- Governance Models for Agile Projects

Who Should Attend:

- CIOs, CTOs, Federal IT Executives, Managers and Staff
- Contracting and Acquisition professionals who are or will soon be supporting Agile adoption at their agencies
- Project and program managers who want to better understand their role in an Agile environment
- Agency managers and staff new to adopting Agile projects
- Agency managers and staff who have already started to adopt Agile practices and want to move to the next level of agility
- Development and Operations teams facing ongoing challenges to deployment
- Inspector Generals (IGs) and Staff
- Agency Executives, Managers and Staff who are using Agile or will be using Agile and want to learn more
- Industry Partners who are supporting government agencies

... practical information not theory

Special "Send-A-Team" Registration Fees
For Multiple Students from the Same Government Office

Workshop Is Open to
Federal, State and Local Government Employees
and Industry Partners

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Message

From: Madeleine Smith [msmith@aluminum.org]
on behalf of Heidi Brock [hbrock@aluminum.org]
Sent: 9/12/2018 6:45:30 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]; Kundinger, Kelly [kundinger.kelly@epa.gov]; Morris, Madeline [morris.madeline@epa.gov]
CC: Joe Quinn [jquinn@aluminum.org]; Madeleine Smith [msmith@aluminum.org]
Subject: Meeting Request re: Automotive Fuel Economy Regulations

Dear Administrator Wheeler,

Following the recently proposed draft rule on fuel economy and greenhouse gas emissions standards, I would like to request a meeting with you and a few senior leaders of the U.S. aluminum industry for a brief discussion on the administration's priorities for automotive fuel economy regulations for 2025 and beyond.

We would like an opportunity to brief you on our public comment testimony, specifically on the topic of safety in lightweighting, as well as aluminum's role in helping drive domestic manufacturing jobs, bolstering energy security and supporting national defense. We also seek your input on additional information we can provide as part of this process to support the administration's regulatory objectives.

If your schedule permits, we propose **a meeting in Washington, D.C. ideally on Tuesday, October 2nd or Wednesday, Oct 3rd.** I, along with several senior level executives from Arconic, Constellium and Novelis, will be present.

I look forward to your response, and thank you for your consideration of this meeting request.

Kind regards,
Heidi

The Aluminum Association
Heidi Brock
President & CEO
The Aluminum Association
1400 Crystal Drive, Suite 430
Arlington, VA 22202
T 703.358.2980 | **C** 202.812.8883| **F** 703.358.2961
JOIN THE CONVERSATION:

Message

From: Lorman OnDemand Webinars [customerservice@lormanonline.com]
Sent: 9/13/2018 12:18:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Water/Energy Nexus: Utilizing Energy Performance Contracting - OnDemand Webinar

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OnDemand Webinar

The Water/Energy Nexus: Utilizing Energy Performance Contracting

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90 min

Credits*:

For over 30 years, energy performance contracting (EPC) also known as ESCO and energy savings performance contracting has assisted municipalities, state and federal entities with financing improvements to infrastructure. Have you been asked to reduce energy operating costs or support sustainability efforts for your entity? Are you or your organization tracking greenhouse gases or concerned about climate change? Are energy costs increasing but budgets for capital maintenance or replacement decreasing? Do you have mandates that are not adequately funded in these areas, such as implementing renewable energy? Is your organization positioned or positioning to assist with these issues? Questions, issues and concerns such as these are increasingly common yet conventional approaches to funding projects may not be adequate or may not exist at all. This OnDemand Webinar will help those people responsible for achieving the above objectives understand the basics of EPC as a means to assist in finance and delivery. With support even reaching to the President of the United States and the head of the U.S. Department of Energy, EPC provides an attractive design build turnkey option that defers payments until savings are realized. As with any endeavor, understanding the rules of the game is critical. This program will present the basics of EPC, followed by who should be involved and how the process works. Then, leveraging lessons learned and understanding sources of uncertainty inherent in all projects are discussed, these being critical to having a successful project and managing expectations of numerous stakeholders. This OnDemand Webinar is valuable to understanding and the basics of entry into the EPC world of finance and delivery.

MORE ›

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CH2M HILL Companies, LTD

Sarah Nell Compton E.I.T., LEED AP
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Message

From: Bloomberg Law [bbnalegal@info.bloomberglaw.com]
Sent: 9/19/2018 12:30:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [Free Report] Dispel Myths About The Work-Product Doctrine.

Bloomberg Law

View in browser.

Special Report

DOWNLOAD NOW

Practical Tips For 'Anticipation of Litigation' Discovery

Attorneys and clients who anticipate litigation discovery should understand how common missteps can destroy or waive privilege protections, particularly in today's digital age. As experienced lawyers know, cases can be won or lost depending on whether documents are withheld as privileged. However, many lawyers wrongly believe that the work-product doctrine, which may be invoked by both lawyers and clients, can be used as a catchall protection to prevent discovery of documents. In

reality, the doctrine has a more limited scope and only protects those documents prepared for or by an adverse party in "anticipation of litigation."

Read **Practical Tips For 'Anticipation of Litigation' Discovery**, an exclusive report from Bloomberg Law®, to better understand the work-product doctrine and learn five key tips for avoiding potentially disastrous results in later litigation.

Download the complete report now.

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From: Michael McKenna [mike@mwrstrat.com]
Sent: 9/5/2018 11:23:48 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: letter from organizations interested in E-RINs
Attachments: Letter to Acting Administrator Wheeler re RFS 9.6.18.pdf

Boss —

Was mailed today . . .

MM

September 6, 2018

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Acting Administrator Wheeler:

The undersigned companies and organizations, together with the thousands of hardworking men and women and the communities that comprise the renewable biomass and biogas energy sector, ask for your support in resolving regulatory gridlock on an issue that has been pending before the EPA since passage of the amendments to the Renewable Fuel Standard in 2007. Some of us generate power using methane from landfills, digesters and waste treatment plants; others utilize forest residues and other biogenic fuels, including the biogenic portion of municipal solid waste (MSW), that are combusted to make renewable electricity. By whatever mechanism biomass and biogas electricity is produced, when our energy is used as transportation fuel, it qualifies as an RFS fuel, and we are entitled, by law, to participate in the RFS program.

EPA now faces a four-year backlog of applications from power producers seeking registration as RIN producers for biogas-based electricity, with more requests on the way following positive findings by the Agency that power produced using certain solid forms of biomass now qualifies under the RFS. We have been informed that, until the Agency resolves a number of policy issues regarding how the RFS "electric pathway" program will function, these applications will not be acted upon. This has completely blocked participation in the RFS electric pathway by any existing or future applicants.

We urge that all outstanding registration requests be addressed in the short term and that the EPA come to a final conclusion on regulatory structure for the electric RIN pathway. Regulatory inaction regarding eRINs has had the de facto effect of picking "winners and losers." The biomass, municipal solid waste, and biogas electricity sectors represented by the signatories of this letter deliver important baseload power, providing grid reliability while promoting well-paying jobs in rural areas and in other communities. Our facilities are largely based in or owned by communities left behind by federal policies favoring other technologies at our expense. We resolutely request your assistance in resolving these outstanding issues, which will enable us to participate in the very benefits that Congress extended almost eleven years ago.

We look forward to working with you to address this matter. If you have any questions, please contact Bob Cleaves at Biomass Power Association at bob@usabiomass.org, Patrick Serfass at American Biogas Council at pserfass@ttcorp.com or Ted Michaels at Energy Recovery Council at tmichaels@energyrecoverycouncil.org.

Sincerely,

1. Biomass Power Association
2. American Biogas Council
3. Energy Recovery Council
4. Business Council for Sustainable Energy
5. EESI
6. Covanta
7. Diamond Scientific
8. Regenis
9. Ag Methane Advisors, LLC
10. Des Moines Metro WRA
11. Brightmark Energy
12. Biogas Researchers, Inc.
13. Organic Waste Systems, Inc.
14. Montrose Environmental
15. SCORE, LLC
16. Bioresource Development, LLC
17. BioGas Corp.
18. AB Energy USA, LLC
19. Paques, Inc.
20. Energy Systems Group
21. HV Consulting Company
22. MTU America dba MTU Onsite Energy / Rolls-Royce Power Systems
23. Agrilectric Power Partners
24. IHI Power Services Corp.
25. Rio Bravo Fresno
26. Rio Bravo Rocklin
27. Pacific Ultrapower Chinese Station
28. Evergreen Biopower LLC
29. EWP Renewable Corp.
30. Lokey Carbon Concepts, LLC
31. BioWorks Energy, LLC
32. Aurora Ridge Dairy
33. Re4ormed Organics
34. StormFisher
35. Wadham Energy LP
36. Sievers Family Farms
37. AgriReNew
38. Michigan Biomass
39. Planet Found Energy Development
40. Biomass One
41. NovoPower
42. ES Engineering

43. QED Environmental
44. PlanET Biogas USA, Inc.
45. Greenleaf Power
46. Chaput Family Farms
47. ReEnergy Holdings Inc.
48. Waste Management
49. Vanguard Renewables
50. SCS Energy
51. Beckley Sanitary Board
52. Kent County Department of Public Works
53. York County Solid Waste and Refuse Authority
54. Engie
55. Gainesville Regional Utilities
56. Mulch Master
57. Enpower Corp.
58. Koda Energy LLC
59. CH4 Biogas
60. Power & Energy Systems
61. OHR Energy
62. Biomass One, LP
63. National Public Energy, Inc.
64. White City Holdings, LLC
65. Snowden Electric Company
66. Unison Solutions, Inc.
67. BTR Energy, Benefit LLC
68. Biomass Magazine
69. Green Valley Recycling
70. Keystone Engineering Solutions, Inc.
71. Energy Resources Group, Inc.
72. Green Era Sustainability
73. Loyalton Cogen LLC
74. Cortus Energy North America Inc.
75. Eisenmann Corporation
76. Richt-a-Way Ag Services
77. Richt-A-Way Construction Inc.
78. National Milk Producers Federation
79. 2G Energy Inc.
80. Ameresco
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87. Force Energy Systems, Inc.
88. Montrose Environmental Group
89. Ortega Equestrian Center
90. I+A Ingeniería Aplicada
91. RENEW Wisconsin

92. Generate Capital
93. Phase 3 Renewables
94. Veolia North America
95. EVENSOL LLC
96. Hydrus USA, Inc.
97. Dairy Farmers of America
98. Westec Industries LLC
99. Granite Shore Power
100. ReCon Associates, LLC
101. U.S. EcoGen, LLC
102. California Rice Commission
103. GHG Engineering LLC
104. Desert View Power
105. HL Power
106. Plainfield Renewable Energy
107. Bluebridge Cooperative
108. Lancaster County Solid Waste Management Authority
109. Genesis Industrial Group
110. Deerhaven Renewable
111. California Biomass Energy Alliance

Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/13/2018 9:46:53 PM
To: Frye, Tony (Robert) [frye.robert@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Dunn Letter of Support from Former ABA SEER Chairs
Attachments: 00251147.pdf

Tony,

The ABA has discontinued allowing ABA Sections to send, on ABA letterhead, letters of support for political nominees who are also among the ranks of ABA leadership, like Alex. We worked with the ABA Governmental Affairs office and prepared the attached letter of support, which is not on ABA letterhead but does list many former ABA Chairs of our Section. It is not what we wanted, but it is the very best we can do.

We truly hope it helps. Thanks.

Lynn

LYNN L. BERGESON
B E R G E S O N & C A M P B E L L P C
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

September 13, 2018

Via E-mail

The Honorable John Barasso, M.D.
Chairman
U.S. Senate Committee on Environment
and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Thomas R. Carper
Ranking Member
U.S. Senate Committee on Environment
and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Barasso and Senator Carper:

We, the undersigned, write as a group of experienced lawyers with many years of collective experience and expertise in the fields of environmental, energy, and resources law to express our support for Alexandra Dapolito Dunn's nomination as Assistant Administrator of the U.S. Environmental Protection Agency's (EPA) Office of Chemical Safety and Pollution Prevention (OCSPP). We are also former Chairs of the American Bar Association's (ABA) Section of Environment, Energy, and Resources (SEER). The views expressed in this letter are our personal views only and should not be construed as presenting the policy of the ABA, SEER, our employers, or our clients. Each of us has known Alex for years and worked with Alex in her capacity as a former Chair of SEER and as Executive Director and General Counsel of the Environmental Council of the States (ECOS). We strongly support Alex's nomination, and believe that Alex will serve the Agency with honor and distinction.

Alex's leadership skills, expansive understanding of environmental law, regulation, and policy, impeccable character, and personal integrity will ensure Alex's success as Assistant Administrator of OCSPP; and make her nomination an inspired selection to lead this critically important EPA program office. Alex's varied and distinguished career, and her well-recognized intellectual rigor and forthrightness exemplify the highest standards of the legal profession. We enthusiastically and without reservation support Alex's nomination as Assistant Administrator for OCSPP, and believe Alex will serve the office with distinction and honor.

Sincerely,

Pamela E. Barker
Lynn L. Bergeson
Lauren J. Caster
John C. Cruden
Seth A. Davis
Lee A. DeHihns, III
Carol E. Dinkins
Andrea Bear Field
Theodore L. Garrett
Michael B. Gerrard
R. Kinnan Golemon
Sheila Slocum Hollis
Steven G. McKinney
Steven T. Miano
John E. Milner
William L. Penny
Claudia Rast
Irma S. Russell
Eugene E. Smary
Richard G. Stoll
Kenneth J. Warren

Message

From: Lorman OnDemand Webinars [customerservice@lormanonline.com]
Sent: 9/14/2018 12:06:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Grant Management for Grant Recipients - OnDemand Webinar

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Message

From: FranklinCovey [FranklinCovey@adm-email.com]
Sent: 9/13/2018 12:02:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Developing tomorrow's leaders today

Developing tomorrow's leaders today

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WITH
SCOTT MILLER

SEAN COVEY

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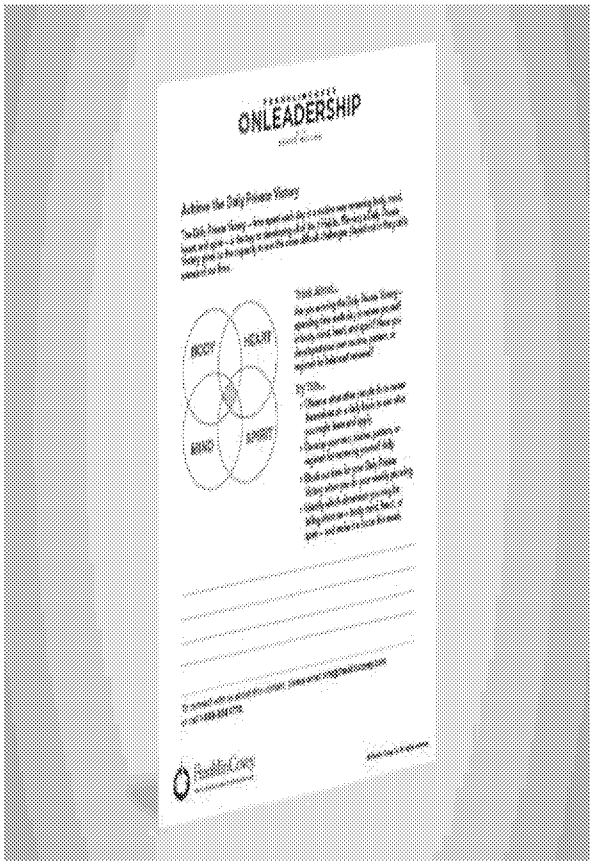

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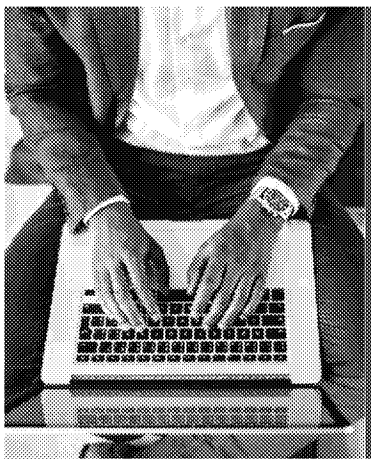

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SEPTEMBER 21

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Message

From: Moorehead, Paul [Paul.Moorehead@PowersLaw.com]
Sent: 9/12/2018 6:14:09 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Superfund Redevelopment - Quapaw Tribe of Oklahoma
Attachments: Meeting Request-Steven Cook (D0797682).pdf

Hi Ryan,

I think Chairman Berrey indicated you are out of town. In any event, I wanted to share the attached with you.

Chairman is coming to D.C. this Sunday 9/16 and will be here all week. In addition to the congressional meetings we usually do, John has a keen interest in visiting with someone to discuss a potential solar project on tribal land at the Tar Creek Site.

I was given the name Steven Cook as you can see and we have sent this meeting request to him already; I wanted you to have it and know what it is we'll hopefully be discussing with him sometime next week.

Thanks and safe travels.

Paul

PAUL G. MOOREHEAD
POWERS
Powers Pyles Sutter & Verville PC
1501 M Street NW, Seventh Floor | Washington, DC 20005-1700
dir 202.872.6745 | fax 202.785.1756 | tel 202.466.6550
Paul.Moorehead@powerslaw.com | www.powerslaw.com

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ATTORNEYS AT LAW

PAUL G. MOOREHEAD
Paul.Moorehead@ppsv.com
202.872.6745

September 11, 2018

VIA ELECTRONIC MAIL

Steven Cook
Deputy Assistant Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Cook:

On behalf of the Honorable John Berrey, Chairman of the Quapaw Tribe of Oklahoma (O-Gah-Pah), I would like to schedule a meeting with you in the September 17-20, 2018, timeframe. The purpose of the meeting is to discuss solar project development on the Tar Creek Superfund site.

Accompanying me in the meeting will be Chairman Berrey and Alan Mauk, consultant to the Tribe. We will, of course, accommodate your busy schedule.

Thank you for your kind consideration of this request and we look forward to a favorable response.

Sincerely,

Paul G. Moorehead

Message

From: Claudia Hosky [claudia@fedinsidernews.com]
Sent: 9/13/2018 4:08:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Webinar Today: DHS, DOJ, USDA on IT Modernization, 1 CPE

ENABLING IT MODERNIZATION
Complimentary Webinar, TODAY 9/13, CPEs

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ALTERNATE LINK: www.fedinsider.com or call 202-237-0300

Enabling IT Modernization: Building a Next Generation Network

DATE: TODAY, 9/13
TIME: 2:00 PM ET / 11:00 AM PT
DURATION: 1-hour
CREDIT: 1 CPE from the George Washington University, CEPL
COST: Complimentary

DISTINGUISHED SPEAKERS
- **JOE KLIMAVICZ**, CIO, DOJ
- **DAVID YOUNG**, Senior VP, Strategic Government, CenturyLink
- **PAUL BECKMAN**, CISO, DHS
- **TACY SUMMERSETT**, Acting CISO, USDA
- **TREY HODGKINS**, Senior Vice President, IT Alliance for the Public Sector
- **ZAIN AHMED**, Senior Director & GM, CenturyLink
- **FRANCIS ROSE** (Moderator), Government Matters, ABC7 & WJLA 24/7 News

PRESENTED BY: Government Matters, FedInsider News, The George Washington University, and CenturyLink

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Looking forward to seeing you online!

Claudia M. Hosky
Publisher, FedInsider
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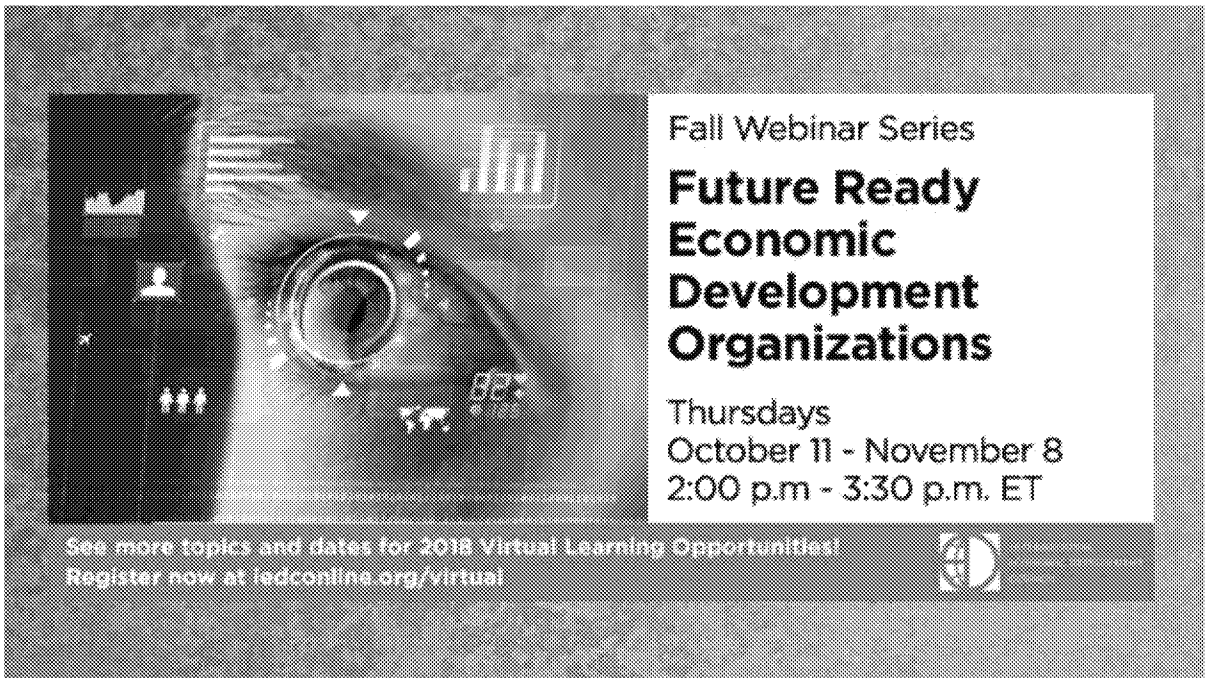
Message

From: IEDC [iedcnews@iedconline.org]
Sent: 9/17/2018 2:47:18 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: The Future Ready Webinar Series is Coming This Fall - New Speakers Added!



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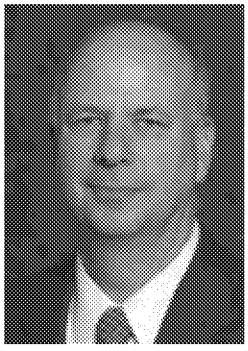
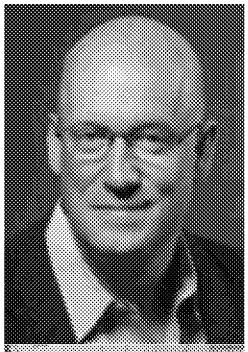
New speakers added!



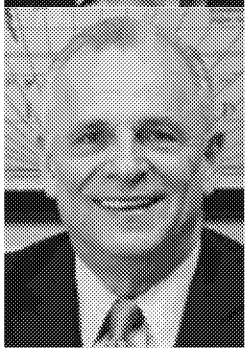
Gerald L. Gordon, PhD, FM, HLM
President and CEO
Fairfax County Economic Development Authority
Tysons, VA

How Economic Developers are Thinking about the Future - Visioning



David Sandel
Co-Founder
iNeighborhoods
St. Louis, MO

The Future of Infrastructure



Rick Weddle, FM, HLM (moderator)
President and CEO
Hampton Roads Economic Development Alliance
Norfolk, VA

How Economic Developers are Thinking about the Future
- Visioning

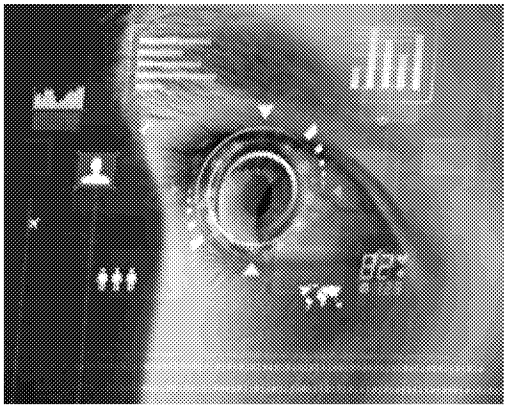
Take your community into the future with new technologies and innovative economic development strategies! Our **Future Webinar Series**, based on EDRP's latest report **Future Ready: Preparing for Tomorrow's Economy**, explores how technologies like AI, 3D printing, robotics, machine learning, and blockchain will change industries, how we work, and economic development.

- Discover the latest industry, talent, and technology trends and predictions for the future
- Learn from communities that are on the leading edge of preparing for what comes next
- Develop a game plan for how your economic development strategy can become *Future Ready*

Register now and receive a complimentary copy of the Future Ready report (a $75 value).

How Economic Developers are Thinking about the Future - Visioning

Thursday, October 11, 2:00 p.m. - 3:30 p.m. ET



The future is being shaped right now by industries in your own backyard. Connecting your strategy with their vision of the future is essential to your community's health. Learn how to conduct "horizon scanning" by engaging with industry experts and investors, and explore the "Future Ready Framework", a tool designed to help EDOs think about, plan for, and succeed in the future.

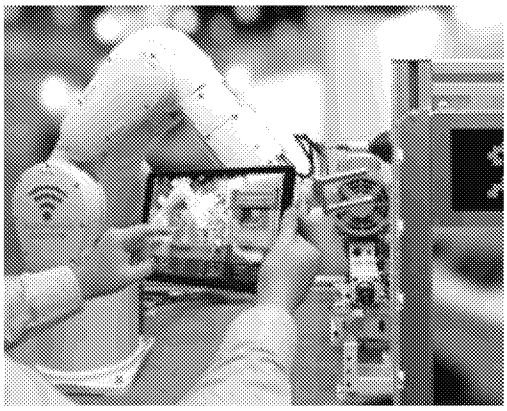
The Future of Infrastructure

Thursday, October 18, 2:00 p.m. - 3:30 p.m. ET

What do retail, healthcare, and advanced manufacturing have in common? The answer is infrastructure, whether it be broadband or 'smart' roads and buildings. Economic developers must learn the infrastructure needs of tomorrow's industries to remain competitive. This webinar will examine the needs of emerging industries as well as the changing needs of established industries and how communities are addressing both.

The Future of Work

Thursday, October 25, 2:00 p.m. - 3:30 p.m. ET



Technological advancements will lead not only to more automation across industries, but the creation of new fields with corresponding jobs. Factor in an older and more diverse talent pool, plus the shift toward a gig economy, and it is easy to see a vastly different future of work. Economic developers must begin now to understand and plan for the future needs of workers and employers and help set their community on the path to a successful

tomorrow.

The Future of Technology Development and Commercialization
Thursday, November 1, 2:00 p.m. - 3:30 p.m. ET

Cities and regions all over the world are experimenting with strategies to establish themselves as hubs for emerging technologies. This webinar will showcase examples of how communities can identify, nurture, and expand their technology-based brand to attract more talent and business.

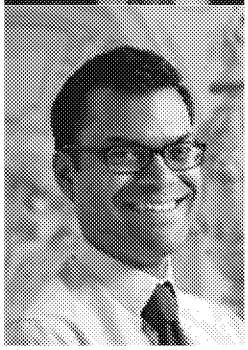
The Future of Economic Development Practices
Thursday, November 8, 2:00 p.m. - 3:30 p.m. ET

Economic development practices need to evolve in response to the tectonic shifts projected for the future. Tomorrow's economy will bring jobs and prosperity to those who can correctly spot the changes and adapt their practices. This concluding webinar will examine two shifts that will impact economic development practices significantly: 1) the use of new and emerging technologies in EDOs, and 2) responding to climate change.

Speakers:

Jon Clifton
Global Managing Partner
Gallup
Washington, D.C.

Norman Jacknis
Senior Fellow, Intelligent Community Forum
Faculty Member, Columbia University
New York, NY



Jay Nath
Co-Executive Director
City Innovate
San Francisco, CA

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SERIES REGISTRATION

International Economic Development Council

IEDC is a non-profit, non-partisan membership organization serving economic developers. With more than 5,000 members, IEDC is the largest organization of its kind. Economic developers promote economic well-being and quality of life for their communities by creating, retaining and expanding jobs that facilitate growth, enhance wealth and provide a stable tax base. From public to private, rural to urban and local to international, IEDCâ€™s members are engaged in the full range of economic development experience. Given the breadth of economic development work, our members are employed in a wide variety of settings including local, state, provincial and federal governments, public-private partnerships, chambers of commerce, universities and a variety of other institutions. When we succeed, our members create high-quality jobs, develop vibrant communities, and improve the quality of life in their regions.

To be removed from this mailing list, please click here.

Message

From: Training - Gov COOP-Emergency Planning Workshop [Training@PotomacForum-COOPinGovTraining.org]
Sent: 9/11/2018 6:38:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Is Your Office Prepared for a Hurricane or Other Disaster?

Hurricane Florence Is Coming -
Is Your Agency Prepared for the Next Event? Plan Now!
Gov COOP Training - Our 26th Session of Proven, Successful Workshop -
Please Review & Forward to Others In Your Organization Responsible for Developing, Reviewing or Oversight of Emergency Planning

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Government Speakers

Keynote: Director Richard M. Chávez
Director, Office of Operations Coordination, DHS
U.S. Government Senior Executive Continuity Coordinator
Reporting Directly to Secretary of DHS

--
Veronica (Roni) M. Glass
Deputy Director, Continuity Division
Office of Operations Coordination
DHS
--
Kenneth Briscoe
Chief, Readiness Branch
Continuity Division
Office of Operations Coordination
DHS
--
Calvin W. Turner, Jr.
Director, National Finance Center, USDA
(NFC is the "Poster Child" for Data Center Relocation & Reconstitution)

--
Joe Douglas, ABCP
Continuity Program Manager, USITC
--

Overview:
Government and Industry Leaders Present Practical Solutions to Government Continuity of Operations Requirements.

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- *Is your preparation adequate to maintain continuity of your government functions?*

- *Learn from others including the Director of the Department of Agriculture National Finance Center whose proven leadership successfully implemented a COOP plan and continued mission essential functions during a hurricane that destroyed his facility.*

- *Learn New COOP Requirements, Federal Government Policy, Best & Proven Practices and what they mean for your organization.*
- *The Federal Government's continuity requirements are currently*

being updated and this workshop will address new developments and how it will impact your organization.

-
- *New emphasis has been placed on Federal Career and Newly Appointed Leadership to insure continuity in all mission aspects.*

- *There will be no excuses for lack of performance in the event of an emergency. Your agency leadership is more dependent than ever on its COOP personal.*

Demonstrated Commitment to Value and Performance: Potomac Forum is so confident that each and every attendee will be pleased with the information presented and its value to the government that Potomac Forum will provide a FULL RETURN OF REGISTRATION FEE for any student that does not find the two day workshop of value to their organization.

Consider this Workshop...

- ***If you have recently taken over an existing COOP Program and want to ensure that it is up to speed with the industry's best practices***
- ***If you have a COOP Program that is just taking off***
- ***If you have an established COOP Program and need to find new areas to quickly and easily improve***
- ***If you are looking for ways to make your COOP Program execute effectively on a "bad day"***
- ***If you are new to the Federal COOP environment***
- ***If you are in top leadership and need to learn more about what you are "on the hook" for within COOP***
- ***If you are not satisfied with your current agency COOP Plan or Policy***
- ***If you have new Agency Leadership and want to be better prepared to discuss COOP***
- ***If you want to discuss your COOP planning with other Government experts***
- ***If you want to "fine tune" or "Refresh" your knowledge of COOP and current thoughts, regulations, and guidance.***

... then this is the training for you to deliver a practical and sustainable COOP Program that complies with government regulations, best practices and effective management.

Who Should Attend:

- ***Program Managers responsible program operation***
- ***Senior Leadership who own the COOP Program***
- ***Senior Leadership who is Accountable for COOP Planning, Policy and/or Implementation***

- *Middle managers and staff tasked with the development and implementation of COOP*
- *Facility managers of Alternate and Emergency Relocation Sites*
- *IT Managers and Staff tasked with Information Systems Contingency Planning according to NIST SP800-34 Rev. 1 Guidance*
- *IGs, QA Managers and Staff*
- *Procurement Staff responsible for COOP Contracting*
- *Human Resource Managers and Supervisors responsible for Implementing COOP Telework and tracking personnel during emergencies*
- *State and Local Government COOP Planners*
- *Industry managers and staff supporting the government*

While this workshop is focused on federal COOP, many State and Local Governments have attended and found the information relevant and useful

For Information or Registration:
www.potomacforum.org
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Federal, State and Local Government & Industry Invited to Register
Press is NOT Invited to Attend to Permit Candid Discussion Among the Attendees

"Send-A-Team" Reduced Registration Fee

Comments from Previous COOP Workshop Government Attendees (from student evaluations)

Speakers were fantastic! Very informative and great interchange.
Keep up the good work. I will be back for other training.
Security Manager
Executive Office of the President

I learned a lot and gained so much knowledge about the subject.
I didn't know Telework is so important to support during COOP.
Thanks for support of Golv Agencies - Thanks for great speakers and various great subjects.

Enjoyed very much every instructors' presentations
Great breakfast, snacks and Lunch.
Telecom Specialist
Dept of State

One of the best workshops I have attended!

Great presenters.
Government Attendee

I thought the presenters were very compelling and that the information was well organized
GPO attendee

Great overall workshop! Loved all the presenters
Lead
Census Bureau
--***Well worth my time being out of the office for 2 days***
Financial Analyst
US Coast Guard

As the local level funds are limited. This workshop was self funded, but knowledge was outstanding that was worth the value to me in my position. Wonderful Networking opportunity
Emergency Management Coordinator
Sheriff's Office - Emergency Management
County in Wisconsin

"Send-A-Team" Registration Fees

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Potomac Forum, Ltd.

This email was sent by: **Potomac Forum, Ltd.**
400 North Washington Street , Alexandria , Virginia, 22314 , USA

Message

From: Ex. 6
Sent: 9/11/2018 6:34:02 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Re: Thank you

Hi Ryan,

I hope you are doing well. I interviewed with you and Kaitlyn Shimmin in late July regarding opportunities at the Office of Public Affairs. During the interview, I stated that I was not interested in the position of Associate Administrator for Public Affairs. However, after several weeks of consideration, I am very much interested in the position and hope that you would reconsider my candidacy for several reasons.

First, I have had time to reflect on how I would run the public affairs office and I believe I would enjoy the challenge and opportunity to ensure it runs efficiently and produces quality communications products.

Second, since the interview, I have set up a Google alert for the Acting Administrator, which has helped me get up to speed on some of the issues facing EPA. I initially was hesitant to take on a lead role at the public affairs office due to my lack of knowledge regarding environmental policy. While I do have much to learn, I feel more confident in my ability to understand the issues before EPA and lead the public affairs office in communicating the importance of the Administrator's policies and priorities to the public and media.

Third, I am excited about the opportunity to work at EPA under the Trump Administration. I am consistently impressed by Acting Administrator Wheeler's leadership at EPA and the team you have put together there.

I understand if you want to go in a different direction, but if you are still looking to hire an Associate Administrator for Public Affairs, I am very much interested in being reconsidered. I do have constraints with my son's daycare schedule (drop-off is 8:30a and pickup is 6p), but I would be all there at the office in between to ensure the public affairs office operates in the best possible way.

Sincerely,
Ex. 6

On Mon, Jul 30, 2018 at 9:20 AM Jessica Collins <Ex. 6> wrote:

Hi Ryan,

Thank you for taking the time to meet with me last Thursday and discuss the opportunity to work at the Office of Public Affairs at EPA. I know you are busy and I appreciate the generous time you provided for the interview. I am very excited about the prospect of joining Acting Administrator Wheeler's team to promote the Trump Administration's good work at the EPA in the media and to the public.

As the process moves forward, please let me know if you need any further information from me. I am happy to provide references, including Chairman Bob Goodlatte and the Judiciary Committee's Chief of Staff, Shelley Husband.

Thank you again and I look forward to hearing from you soon.

Sincerely,
Ex. 6

Message

From: Charles Brittingham [cbrittingham@cassidy.com]
Sent: 3/21/2019 6:10:55 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Sent you a text

Let me know if you got it

Charles Brittingham, II
Senior Vice President
Cassidy & Associates
202-585-2479 (desk)
202-412-3106 (cell)

Message

From: Bloomberg Government [bbg_gov@info.bgov.com]
Sent: 9/4/2018 11:01:07 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Inside GSA's Newest Contract

Bloomberg Government Technocrat

September 4, 2018
Learn More | View this email in a browser

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What's New This Week:
Contracts, Contracts Everywhere

Another week, another contract, and this time with even catchier acronyms. The General Services Administration is in the process of creating a new government-wide contracting vehicle for services related to manned and unmanned systems.

Known simply as ATLAS, the program is a big deal since it could consolidate billions of dollars in services annually that currently flow through hundreds of different contracts. Although the GSA hasn't yet finalized the scope of the new program, it could potentially support the government's fleet of civilian and military land vehicles, as well as ships and aircraft. If that's the case, the scope of ATLAS could be huge.

BGOV's Chris Cornillie has your exclusive look at ATLAS and overall federal spending on vehicle support services. He will update this story as it develops.

Since we're on the subject of contracts, the Defense Department's $10 billion Joint Enterprise Defense Infrastructure cloud contract is making headlines again. Oracle just updated its legal argument against the DOD's decision to award JEDI to a single vendor and filed a supplemental protest. While it's unclear on what grounds Oracle made the supplemental protest, its victory could force the Pentagon to revisit the whole single vendor conundrum.

Can't we all just get along? Oracle is upset with the DOD. President Trump is upset with Google. And we're just sitting here … bummed that NASA is shopping for a new commercial spacecraft and sending humans to the Moon by 2026– and didn't invite us. Wait, we got sidetracked …

Back to the president's beef with Google. The president claims Google is feeding up "rigged" search results. Some believe it's a sign the biggest internet companies could face bipartisan pressure in Washington to be more transparent in how they manage information. It's also raising all sorts of questions about whether these companies are abusing their market dominance.

Will Google and others be subject to some form of federal regulation? This conversation is still just getting started.

What else has the president been up to? Calling off pay raises for civilian federal workers. Trump wrote a letter to House and Senate leaders stating that "for 2019, both across the board pay increases and locality pay increases will be set at zero."

In the meantime, keep reading. There's more you need to know.

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Red Hat's OPEN FIRST Road Tour is coming to DC

Government agencies are under pressure to innovate and modernize IT, now more than ever. The innovation of today is happening in open source.

It's more than technology. It's people and processes, too. Open source communities, collaboration and software are the driving force behind innovation in today's digital world. Red Hat, the world's open source software leader, is helping agencies modernize applications and infrastructure, speed application development, move workloads to the cloud, and adopt DevOps, with choice and security.

Join Red Hat, Intel and your government peers to hear how agencies are harnessing the power of open source technologies and principles to solve the problems that are unique to your mission.

Click here to register today!

Get Smart

"GSA is embarking on gathering market research to determine whether there is a need for a government-wide contract vehicle for operations, readiness, maintenance, integration, and development of manned, optionally manned, and unmanned platforms, as well as support functions for these platforms."

— Pamela Dixon, GSA press secretary

Read more in this week's exclusive from Bloomberg Government.

Big Moves

VA's New EHR Leader Calls It Quits
The Department of Veterans Affairs had a rough week after two execs leading the agency's multibillion-dollar electronic health record overhaul suddenly quit. The resignations left lawmakers scratching their heads about the future of the ambitious modernization project. Read more.

Army Looks to Future IT Acquisition
The Army's new Futures Command will focus heavily on IT, as it prepares for impending combat situations. The goal is to improve its networks and invest in new technologies. That's good news for IT contractors not only in Austin but all across the U.S. Read more.

Eye on Security

USCIS Seeks Cloud-Based Cybersecurity
It's no secret U.S. Citizenship and Immigration Services has moved much of its citizen-facing operations online in the past year. The agency is currently in the market for a cybersecurity-as-a-service solution that could work across different cloud platforms. Read more.

Fix Needed for Cyber Vulnerabilities Database
The government's Common Vulnerabilities and Exposures program has long faced problems with bugs and security flaws. House lawmakers are pushing for reforms of this key cybersecurity database, claiming that piecemeal, short-term contracts aren't working. Read more.

Beyond Legacy

White House Will Put Bots to Work
The Office of Management and Budget has a plan in place this year to use automated bots that would handle repetitive tasks. But don't worry, the bots aren't likely to steal any jobs. They'd be doing "low-value" work required for financial analysis and contracting documentation. Read more.

Merger Can't Stop Education's IT Modernization
Technology changes should be the first step in merging the Labor and Education Departments, agency officials said. Whether the merger happens or not, the Education Department means business in pushing forward on its IT modernization efforts. Read more.

Tech & Policy

Policy Reviews Are Coming Soon
Federal CIO Suzette Kent stressed the need to update government IT policy by comparing antiquated cybersecurity metrics to using a 10-year-old cell phone. Expect to see some updates by year's end under FISMA, Kent said. Read more.

Fight Over California's Privacy Bill Continues
It's been two months since advocates celebrated passage of the California Consumer Privacy Act, which would give consumers more data control. But now they're worried pressure from powerful businesses could end up gutting the law completely. Read more.

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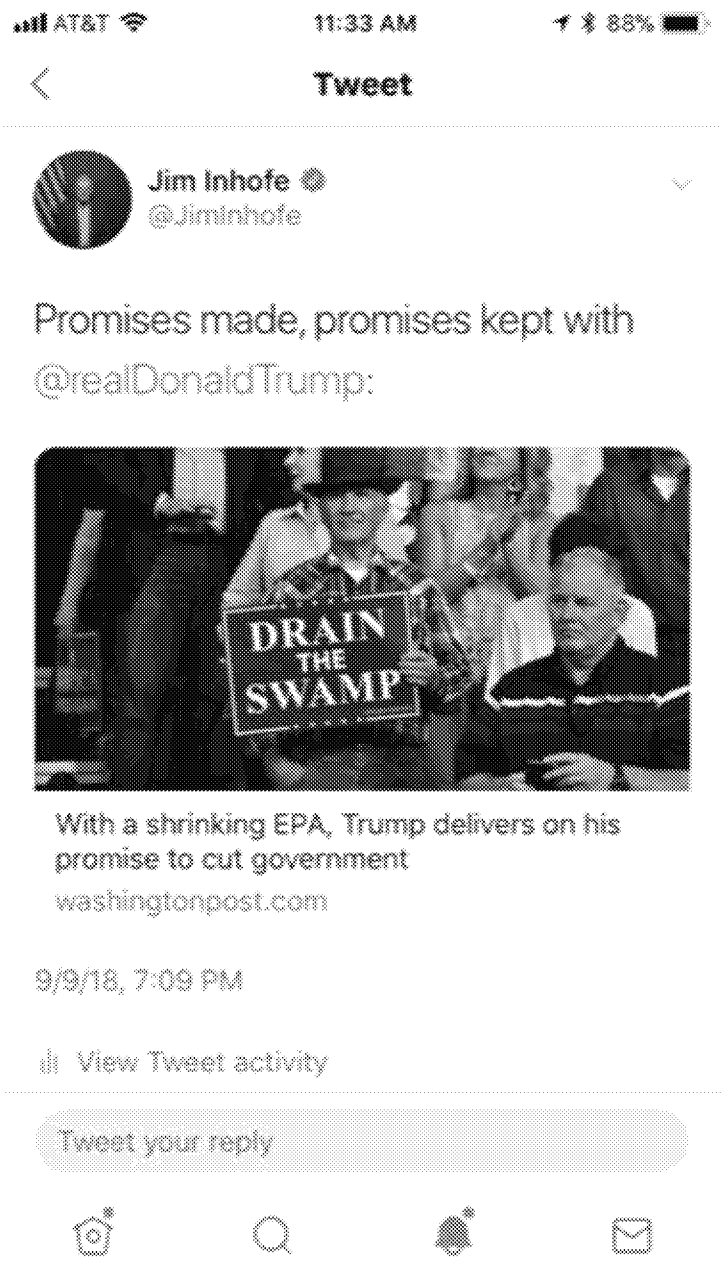
Message

From: Holland, Luke (Inhofe) [Luke_Holland@inhofe.senate.gov]
Sent: 9/10/2018 3:34:30 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: our tweet

FYI

From: Burke, Leacy (Inhofe)
Sent: Monday, September 10, 2018 11:34 AM
To: Holland, Luke (Inhofe) <Luke_Holland@inhofe.senate.gov>
Subject: Re: epa tweet



Message

From: Tom Davis Ex. 6
Sent: 9/17/2018 1:12:12 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Ernie Rosenberg [contact@ernierosenberg.com]
Subject: Corporate Roundtable

Good morning,
You were kind enough to meet with the Roundtable in the Spring and informally discuss EPA priorities...many changes since then and we wonder if you are willing to come back for dinner on Nov 13 and fill us in on the latest? again, informal and no press.
Hope you can make it,

Tom Davis

Box 247
Tilghman, MD 21671
202-262-1630 (cell)
410-886-1009 (office)

Email: Ex. 6

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Message

From: Lorraine Gershman Ex. 6
Sent: 9/7/2018 7:34:43 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: My contact information

Ryan,

The best email for me is Ex. 6 And you already have my cell phone number: Ex. 6 Ex. 6

Thanks - and safe travels back to DC!
Lorraine

Message

From: Ghanta, Venu G [Venu.Ghanta@duke-energy.com]
Sent: 9/15/2018 9:17:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Wright, Peter [wright.peter@epa.gov]; Breen, Barry [Breen.Barry@epa.gov]; Cook, Steven [cook.steven@epa.gov]; Glenn, Trey [Glenn.Trey@epa.gov]
Subject: Fw: Sutton landfill heads up and messages
Attachments: Sutton news release 091518.docx

All-There has been a release of ash from our Sutton landfill into a nearby cooling pond. We are planning to issue the attached news release (summarized below) shortly, but I wanted to get this out to you as soon as possible. Please reach out if you have any questions.

Regards, Venu

Venu Ghanta
Federal Regulatory Affairs Director
325 7th Street NW, Suite 300, Washington, DC 20004
Office: 202-824-8013
Cell: 202-699-2337

WILMINGTON, N.C. – Historic rains from Hurricane Florence caused the release of stormwater, which may have come into contact with coal ash from a lined landfill at the company's Sutton Power Plant in Wilmington.

Because of the heavy rainfall amounts, it is difficult to calculate the amount of water that may have reached Sutton Lake, the cooling pond that was constructed to support plant operations.

Inspections today identified a slope failure and erosion in one section of the coal ash landfill, which displaced about 2,000 cubic yards of material and would fill about two-thirds of an Olympic-sized swimming pool. The majority of displaced ash was collected in a perimeter ditch and haul road that surrounds the landfill and is on plant property.

Coal ash is non-hazardous, and the company does not believe this incident poses a risk to public health or the environment. The company is conducting environmental sampling as well.

Site personnel are managing the situation and will proceed with a full repair as weather conditions improve.

Ash basins, which are being excavated, and the cooling pond continue to operate safely.

DUKE ENERGY.

News Update

24-Hour: 800.559.3853
Sept. 15, 2018

Historic rains from Hurricane Florence cause water release at Sutton Power Plant in Wilmington

WILMINGTON, N.C. – Historic rains from Hurricane Florence caused the release of stormwater, which may have come into contact with coal ash from a lined landfill at the company's Sutton Power Plant in Wilmington.

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Duke Energy

Headquartered in Charlotte, N.C., Duke Energy (NYSE: DUK) is one of the largest energy holding companies in the U.S., with approximately 29,000 employees and a generating capacity of 49,500 megawatts.

The company's Electric Utilities and Infrastructure unit serves approximately 7.6 million retail electric customers in six states – North Carolina, South Carolina, Florida, Indiana, Ohio and Kentucky.

Its Gas Utilities and Infrastructure unit distributes natural gas to approximately 1.6 million customers in five states – North Carolina, South Carolina, Tennessee, Ohio and Kentucky. Its Commercial Renewables unit operates a growing renewable energy portfolio across the U.S.

More information about the company is available at [HYPERLINK "http://www.duke-energy.com"]. The [HYPERLINK "http://news.duke-energy.com/"] includes news releases, fact sheets, photos, videos and other materials. Duke Energy's [HYPERLINK "http://illumination.duke-energy.com/"] features stories about people, innovations, community topics and environmental issues. Follow Duke Energy on [HYPERLINK "https://twitter.com/dukeenergy"], [HYPERLINK "https://www.linkedin.com/company/duke-energy-corporation"], [HYPERLINK "https://www.instagram.com/duke_energy"] and [HYPERLINK "https://www.facebook.com/dukeenergy"].

###

Message

From: Esri Training Team [newsletter@esri.com]
Sent: 8/30/2018 9:13:39 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Moving to ArcGIS Pro? Be Productive on Day 1

View email in web browser

Get Ready to Go Pro

Hi Ryan,

Many organizations like yours are transitioning GIS workflows to ArcGIS Pro. We're here to help with a class specially designed for experienced ArcMap users who will be working in the new ArcGIS Pro environment.

Migrating from ArcMap to ArcGIS Pro introduces GIS professionals to ArcGIS Pro projects, terminology, and the user interface. In two days, they will get hands-on practice importing ArcMap files; performing a variety of common editing, analysis, and mapping tasks; and creating and sharing geospatial resources.

Speed up the transition from legacy ArcMap workflows and get ready to take full advantage of the new capabilities offered by ArcGIS Pro.

Best Regards,
The Training Team

View Course Details

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Message

From: IEDC [iedcnews@iedconline.org]
Sent: 9/14/2018 3:02:26 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Economic Development Journal: Summer 2018

EDJ The IEDC Economic Development Journal

Volume 17 | Issue 3 | Summer 2018 www.iedconline.org

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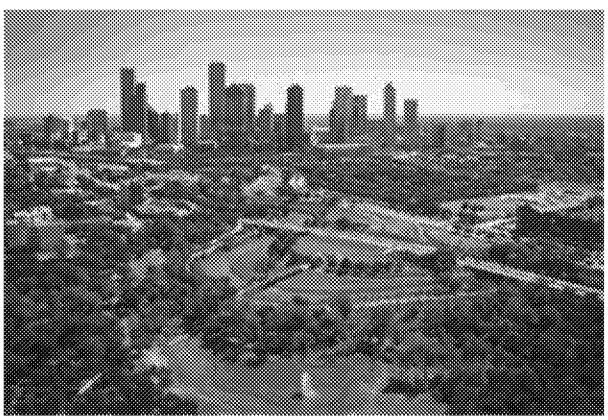
Economic Development Leadership: Practice the Essentials to Recover Quickly in a Time of Crisis

by Jason Ford, CEcD



Nearly a year ago, Houston and the Texas Gulf Coast was hit by Tropical Storm (Hurricane) Harvey, creating one of the largest flooding events ever to hit the US. The author shares important lessons learned from Houston's regional perspective in effective disaster response and the role that economic developers play in economic recovery.

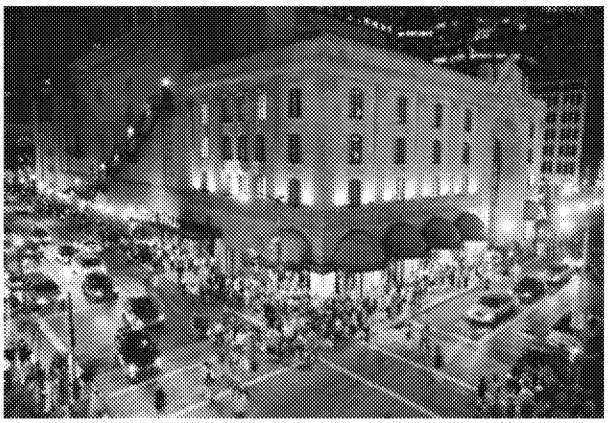
Public-Private Partnerships: Delivering Civic Infrastructure through P3s

by Michael Catsi, CEcD, DFCP

Public-private partnerships (P3 or PPP) have been used since the 1990s to finance and procure infrastructure projects around the world. US governments are beginning to recognize the value

of P3s and should learn from other countries and US success stories to engage with, and ensure, stakeholders understand the value of P3s in infrastructure delivery.

Economic Development after Dark: Making the Case for a Night Mayor



by Allison Harnden

The nighttime economy has special needs and considerations to assure safety, reverse and prevent negative impacts, and maximize economic benefit to the community. Mayors, business districts, and city councils worldwide are appointing "night mayors" and night economy managers to nurture and guide this booming economic sector.

Aging as an Engine of Innovation, Business Development, and Employment Growth: Facilitating Age-Related Economic Development

by James H. Johnson, Jr., Allan M. Parnell, and Huan Lian

Older adults will drive U.S. population growth over the next quarter century. Aspiring entrepreneurs and existing business enterprises that recognize the propitious opportunity to drive innovation by creating products and services that promote successful aging and create age-friendly communities can potentially shape U.S. economic and employment growth in the foreseeable future.

Navigating the Site Development Process: Communities Prepare for Success in the Industrial Real Estate Market

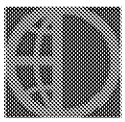
by Beth H. Land, CEcD

The industrial real estate market across the United States continues to tighten, making it difficult for communities to attract new jobs and investment. This article looks at how four different communities navigated the site development process, and their success stories. The article also offers key steps and considerations for starting the site development process.

Towards Creating a Stronger Relationship Between the Public Sector's Land-Use Planners and Economic Development Professionals: Establishing a Shared Understanding

by Todd J. Poole, EDFP, MPA

This article shares the author's perspective on typical challenges that can arise between land planners and economic development professionals and how these challenges can be overcome.



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Message

From: Lyons, Troy [lyons.troy@epa.gov]
Sent: 9/11/2018 11:59:53 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
Subject: Re: WRDA

Thanks!

Sent from my iPhone

On Sep 11, 2018, at 6:08 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Will do. Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Sep 11, 2018, at 3:42 AM, Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov> wrote:

We have reached agreement with the House on a WRDA bill, filed tonight.https://docs.house.gov/billsthisweek/20180910/S3021.pdf

The House will take the bill up under suspension on Thursday. The House is sending the bill back to us as a message on S. 3022, the Minnesota courthouse naming bill the Senate recently passed. The message, which is a substitute for that bill, includes the text of WRDA and the courthouse naming at the end.

We are now working to pull together background material, but a few top lines:

-Includes a full 2-year WRDA bill;
-Includes a robust drinking water title that addresses key priorities from our bill (resiliency, grants for unregulated contaminants and small and disadvantaged communities, lead in schools - not exhaustive list here) as well as the first reauthorization of the drinking water SRF in 22 years which grows the program's authorization to $1.95B in 2021 (just shy of doubling in 3 years). We also reached agreement with the House on a 5-year extension of Buy America;

-Includes a handful of projects in ENR/NR/EC jurisdiction that came into the bill along with agreement to release 5M barrels of oil from the SPR for sale toward the end of the scoring window as a pay-for.

All in all, I am pretty pleased with the result. I really appreciate your support, and all the TA provided by your staff which helped us develop a strong product. Please share with Acting Adm Wheeler.

Thanks,
MF

Mary Frances Repko
Minority Staff Director
U.S. Senate Committee on Environment and Public Works

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 9/18/2018 8:45:56 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: FW: You're Invited! Industry Briefing: PFAS Regulation

This email originated from outside of the organization.

Energy & Resources Policy

Environment Committee:

The National Association of Manufacturers is partnering with the U.S. Chamber of Commerce and the Responsible Science Policy Coalition to host a briefing on PFAS regulation. Additional details are provided below. We hope you will be able to join us!

YOU'RE INVITED

Industry Briefing: PFAS Regulation

Thursday, September 27, 2018 from 3:30 p.m. to 4:30 p.m.
U.S. Chamber of Commerce
1615 H Street, NW, Washington, DC. 20062

The U.S. Chamber of Commerce, National Association of Manufacturers, and Responsible Science Policy Coalition are hosting a briefing on the regulation of perfluoroalkyl and polyfluoroalkyl chemical substances (PFAS) and the potential impact it will have on industry. PFAS are a group of man-made chemicals used in manufacturing and consumer products that are persistent in the environment and of growing interest and debate due to potential human health concerns.

Dr. Peter Grevatt, Director for the U.S. Environmental Protection Agency (EPA) Office of Groundwater and Drinking Water, will provide background and an update on EPA's actions to better understand and address any potential issues.

*Please RSVP to**Kara Riba** by**Friday, September 21, 2018**.*

Scheduled Speakers:

- ***Mr. Jonathan Gledhill,***President, Policy Navigation Group
- ***Dr. Peter Grevatt,***Director, Office of Groundwater and Drinking Water, U.S. Environmental Protection Agency
- ***Mr. James Votaw***, Partner, Keller and Heckman, LLP

If you have any questions, please contact**Jake Tyner**,*Manager & Associate Policy Counsel, U.S. Chamber of Commerce Global Energy Institute*.

Sincerely,

Ross Eisenberg
Vice President, Energy and Resources Policy
National Association of Manufacturers
Direct: 202.637.3173
Mobile: 703.517.1655
Email: reisenberg@nam.org

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This email was sent to the NAM's Environmental Quality Committee. To no longer receive these emails,click here.

Message

From: Ceglia, Lisa (CWDC) [Lisa.Ceglia@smiths.com]
Sent: 9/4/2018 2:34:50 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Lunch September 13th

Hey hey—hope you had a great long weekend. Any chance you are around for lunch on the 13th?

Also, are you here this week or next—dinner one night?

From: Ceglia, Lisa (CWDC)
Sent: Wednesday, August 29, 2018 4:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Lunch September 13th

Hi Ryan!
How are you? We are WAYYYY overdue to get together.

September 13th I have an executive in town who won this trip to DC because of all his great engagement with the Government Relations office, so we want it to be fun. He was in charge of regulatory for Smiths Medical, until recently where he took on a role doing regulatory strategy for all of Smiths Group. I thought it might be fun to introduce him to an agency he is not familiar with—and actually fun to introduce him to a fun person.

Any chance you're around for lunch on the 13th? We are free between 11- 1:30 so anything that works for you is fine with us.

I'm finally in town next weekend and I think you'll be at the dove hunt ("you mean the bird of peace?"- my friend Melissa at lunch a few years back-haha). Let's pick a night for dinner in the next couple weeks. Miss you!

Lisa

Lisa M. Ceglia
Vice President
Government Relations
Smiths Group
425 Third Street, SW, Ste. 875
Washington, DC 20024
Phone: 202-777-8453
Cell: 716-863-7996

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Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/4/2018 9:55:21 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Ethylene Oxide
Attachments: BV Test ltr 28AUG2018.pdf; Sterigenics Willowbrook I 8-24-18 Backvent Protocol.pdf; Sterigenics Willowbrook II 8-24-18 Backvent Protocol.pdf

Ryan,

Apparently the protocol was submitted to IEPA not federal EPA, as reflected in the attached which I just received. Nonetheless, any help you can provide to hasten the approval of the protocol is appreciated. The sooner the protocol is approved, the sooner the stack testing can be completed.

Thanks

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

Sterigenics.
A Sotera Health company

August 28, 2018

Illinois EPA, Bureau of Air
Compliance & Enforcement Section (MC 40)
Attn: Daniel Rowell, Environmental Engineer
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

RE: Emission System Performance Test Notification
Sterigenics' Willowbrook Facility – ID No. 043110AAC, Permit No. 95120085

Mr. Rowell:

As required in the Construction Permit (Application no. 18060020) issued June 26, 2018, we are submitting this advance notification of our intention to conduct two performance tests of the Sterigenics Willowbrook scrubber control systems at our facilities located at:

Sterigenics - Willowbrook I	Sterigenics – Willowbrook II
7775 South Quincy Street	830 Midway Drive
Willowbrook, IL 60521	Willowbrook, IL 60521

The performance tests are being done pursuant to Section 6 in the construction permit which requires notification at a minimum of 30-days prior to the testing. Sterigenics would be capable of doing the testing prior to the 30-day minimum if this is does not interfere with IEPA's ability to observe the testing. The testing can be conducted as early as September 20th for Willowbrook I and September 21st for Willowbrook II. Notification will also be sent a minimum of 5 working days prior to the actual date of testing to confirm actual date/time. Also enclosed is the proposed testing protocol for each performance test.

Please contact me at kwagner@sterigenics.com or at (630) 928-1771 if you have any questions.

Sincerely,

Kevin Wagner
Director, EH&S

2015 Spring Road, Suite 650, Oak Brook, IL 60523
630-928-1700 | sterigenics.com

TEST PROTOCOL FOR
AIR POLLUTION SOURCE TESTING
OF AN ETHYLENE OXIDE EMISSION-CONTROL SYSTEM
OPERATED BY STERIGENICS US, LLC.
AT ITS WILLOWBROOK I, ILLINOIS FACILITY

Submitted to:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
1021 North Grand Avenue East
Springfield, Illinois 62794

Submitted by:

STERIGENICS US, LLC.
7775 South Quincy Street
Willowbrook, Illinois 60521

I.D. Number 043110AAC

Prepared by:

ECSI, INC.
PO Box 1498
San Clemente, California 92674-1498

Prepared on:

August 24, 2018

ECSi

CONTACT SUMMARY

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TEST DATE

September 20-21, 2018

REGULATORY AGENCY

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Environmental Protection Engineer III
Bureau of Air – Air Permits Section
Illinois Environmental Protection Agency
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TESTING CONTRACTOR

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ECSi

1.0 INTRODUCTION

ECSi, Inc. proposes to conduct air pollution source testing of the ethylene oxide (EtO) emission control system operated by Sterigenics US, LLC. at their Willowbrook I facility, located at 7775 S. Quincy Street. The device to be tested is the two stage AAT Safe Cell packed tower scrubber/dry bed reactor emission-control system, which is used to control emissions from fourteen sterilizer backvents and three aeration rooms. The purpose of the testing program will be to demonstrate compliance with backvent emission control requirements and the conditions established in the Air Quality Permit granted to Sterigenics by the Illinois Environmental Protection Agency (IEPA).

We have specialized exclusively in the performance of ethylene oxide source testing and leak testing since 1992, and are the nationally recognized expert in the field. When the current ethylene oxide emissions regulations were being implemented, we worked closely with the California Air Resources Board (CARB) and USEPA to help develop the currently used testing methodology.

2.0 EQUIPMENT

At Willowbrook I, sterilizer backvent emissions are controlled by:

- One two-stage Advanced Air Technologies Safe Cell emission-control system, comprised of a packed-tower chemical scrubber (SC1), equipped with a packed reaction/interface column, a scrubber fluid recirculation system, and a scrubber fluid reaction/storage tank, and a dry bed reactor/scrubber (SC2), comprised of a bank of solid-bed reaction vessels, connected in parallel, installed downstream of SC1 and upstream of a dedicated blower exhaust system.

3.0 TESTING

EtO source testing will be conducted in accordance with the procedures outlined in USEPA CFR40, Part 63.365, using USEPA Method 18 as specified. EtO emissions monitoring will be conducted simultaneously at the inlet and outlet of the Safe Cell System (the inlet of SC1 and the outlet of SC2) during the entire duration of the backvent phase of one of the fourteen sterilizers. A total of three backvent-phase test runs will be performed.

During the backvent phase, EtO emissions at the inlet and the outlet of the Safe Cell System will be determined using direct source sample injection into a gas chromatograph (GC). All testing will be conducted during normal process load conditions. All backvent testing will be performed with freshly sterilized product in the sterilizer. The testing program will be conducted in accordance with the procedures outlined in the following sections.

4.0 RULE/COMPLIANCE REQUIREMENTS

The EtO gas-sterilization system at the Willowbrook I facility is being tested to demonstrate compliance with EPA requirements, as specified in the IEPA Air Quality Permit. The following requirements must be met:

- The sterilizer backvent phase emissions must be vented to control equipment with an EtO emission-reduction efficiency of at least 99 % by weight.

Testing is required to demonstrate compliance with these requirements. Source testing of the emission-control system is required initially, and may be required periodically thereafter.

5.0 TEST METHOD REFERENCE

5.1 INTRODUCTION

EtO source testing will be conducted in accordance with the procedures outlined in USEPA CFR40, Part 63.365, using USEPA Method 18 as specified. EtO emissions monitoring will be conducted simultaneously at the inlet and outlet of the Safe Cell System during the entire duration of the backvent phase of one of the fourteen sterilizers. A total of three backvent-phase test runs will be performed.

During the backvent phase, EtO emissions at the inlet and the outlet of the Safe Cell System will be determined using direct source sample injection into a gas chromatograph (GC). All testing will be conducted during normal process load conditions. All backvent testing will be performed with freshly sterilized product in the sterilizer. The testing program will be conducted in accordance with the procedures outlined in the following sections.

Operation and documentation of process conditions will be performed by personnel from Sterigenics, Inc. using existing monitoring instruments installed by the manufacturer on the equipment to be tested. In accordance with the procedures established in USEPA CFR40, Part 63, Subpart O, scrubber liquor level will be recorded.

5.2 VOLUMETRIC FLOW MEASUREMENT

Exhaust gas flow at the outlet of SC2 will be determined by 40 CFR 60, Appendix A, Method 2C, using a standard pitot tube and an inclined-oil manometer. Sampling ports will be located in accordance with 40 CFR 60, Appendix A, Method 1. The test ports will be located far enough from any flow disturbances to permit accurate flow measurement.

Temperature measurements will be obtained from a type K thermocouple and thermometer attached to the sampling probe. Exhaust gas composition will be assumed to be >99% ambient air. Water vapor will be negligible and, based on previous test data, a default ambient value of 3 percent will be used for determination of exhaust gas composition and flow calculations.

5.3 CONTROL EFFICIENCY AND MASS EMISSIONS MEASUREMENT

The EtO concentration at the inlet and outlet of the Safe Cell System will be measured simultaneously following the procedures delineated in USEPA CFR40, Part 63.365. During backvent, vented gas will be analyzed by an SRI, Model 8610, portable gas chromatograph (GC), equipped with the following: dual, heated sample loops and injectors; dual columns; and dual detectors. A flame ionization detector (FID) will be used to quantify emissions at the emission-control device inlet, and a photoionization detector (PID) will be used to quantify emissions at the emission-control device outlet.

5.4 SAMPLE TRANSPORT

Source gas will be pumped to the GC at approximately 500-1000 cubic centimeters per minute (cc/min) from the sampling ports through two lengths of Teflon® sample line, each with a nominal volume of approximately 75 cubic centimeters (cc) and an outer diameter of 0.25 inch. At the outlet of SC2 the sampling ports will be located in the exhaust stack.

5.5 GC INJECTION

Source-gas samples will then be injected into the GC which will be equipped with two heated sampling loops, each containing a volume of approximately 2cc and maintained at 100 degrees Celsius (C). Injections will occur at approximately one-minute intervals during the sterilization chamber backvent phase. Helium will be the carrier gas for both FID and PID.

5.6 GC CONDITIONS

The packed columns for the GC will both be operated at 85 degrees C. The columns will be stainless steel, 6 feet long, 0.125 inch outer diameter, packed with 1 percent SP-1000 on 60/80 mesh Carbopack B.

Any unused sample gas will be vented from the GC system back to the inlet of the scrubber.

5.7 CALIBRATION STANDARDS

The FID used at the inlet will be calibrated for part-per-million-by-volume (ppmv)-level analyses using gas proportions similar to the following:

1) 100 ppmv EtO, balance nitrogen
2) 50 ppmv EtO, balance nitrogen (audit gas)
3) 10 ppmv EtO, balance nitrogen
4) 1 ppmv EtO, balance nitrogen

The PID used at the outlet will be calibrated for ppmv-level analyses using gas proportions similar to the following:

1) 100 ppmv EtO, balance nitrogen
2) 50 ppmv EtO, balance nitrogen (audit gas)
3) 10 ppmv EtO, balance nitrogen
4) 1 ppmv EtO, balance nitrogen

Each of these calibration standards will be in a separate, certified manufacturer's cylinder. Copies of the calibration gas laboratory certificates will be included with the final report.

5.8 SAMPLING DURATION

Backvent EtO measurements will be taken for the entire duration of the backvent phase, which will be 15 minutes. This will encompass a total sampling duration of 15 minutes for each backvent phase test run.

5.9 CONTROL-EFFICIENCY/MASS-EMISSIONS CALCULATIONS

Control efficiency of EtO will be calculated for the backvent phase. Control efficiency will be calculated for each data point which will be produced at each injection interval. The time-weighted-average (TWA) EtO control efficiency will be calculated using these results. Results of the control-efficiency testing will be summarized in the final report.

Mass emissions of EtO will be calculated using the following equation:

$$\text{MassRate} = (\text{VolFlow})(\text{MolWt})(\text{ppmv EtO}/10^6)/(\text{MolVol})$$

Where:

MassRate = EtO mass flow rate, pounds per minute

VolFlow = Corrected volumetric flow rate, standard cubic feet per minute at 68 degrees F

MolWt =	44.05 pounds EtO per pound mole
ppmv EtO =	EtO concentration, parts per million by volume
10^6 =	Conversion factor, ppmv per "cubic foot per cubic foot"
MolVol =	385.32 cubic feet per pound mole at one atmosphere and 68 degrees F

Mass emissions of EtO will be calculated for backvent. The results will be summarized in the final report.

6.0 TEST SCENARIO

Backvent testing will be performed during normal process load conditions, with freshly sterilized product in the sterilizer. Three test runs will be conducted in series to verify the performance of the emission-control system. The testing schedule will be as follows:

- Equipment setup and gas chromatograph calibration.
- Backvent Test Run #1 is performed with freshly sterilized product in one of the fourteen sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Backvent Test Run #2 is performed with freshly sterilized product in one of the fourteen sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Backvent Test Run #3 is performed with freshly sterilized product in one of the fourteen sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Post-calibration check performed and equipment breakdown.

7.0 QA/QC

7.1 FIELD TESTING QUALITY ASSURANCE

At the beginning of the test, the sampling system will be leak checked at a vacuum of 15 inches of mercury. The sampling system will be considered leak free when the flow indicated by the rotameters falls to zero.

At the beginning of the test, a system blank will be analyzed to ensure that the sampling system is free of EtO. Ambient air will be introduced at the end of the heated sampling line and drawn through the sampling system line to the GC for analysis. The resulting chromatogram also will provide a background level for non-EtO components (i.e. ambient air, carbon dioxide, water vapor) which are present in the source gas stream due to the ambient dilution air which is drawn into the emission-control device. This chromatogram, designated AMB, will be included with the calibration data in the final report.

7.2 CALIBRATION PROCEDURES

The GC system will be calibrated at the beginning and conclusion of each day's testing. Using the Peaksimple II analytical software, a point-to-point calibration curve will be constructed for each detector. A gas cylinder of similar composition as the calibration gases, but certified by a separate supplier, will be used to verify calibration gas composition and GC performance.

All calibration gases and support gases used will be of the highest purity and quality available. A copy of the laboratory certification for each calibration gas will be included in the final report.

8.0 FINAL TEST REPORT DESCRIPTION

The test results will be summarized in a written report. This report will be submitted to the IEPA no later than sixty days after the conclusion of the field testing. It will include results for EtO control efficiency of the emission-control device and mass emissions of EtO to the atmosphere from the emission-control device outlet. The report will contain:

- Summary tables with comparisons of the test results to rule limits;
- Copies of all intermediate data tables and calculation worksheets;
- Copies of all GC chromatograms from calibration runs and sample injections; and
- Laboratory calibration certificates for all calibration and audit gases and all applicable measurement instruments such as pitot tubes and thermocouples.

TEST PROTOCOL FOR
AIR POLLUTION SOURCE TESTING
OF AN ETHYLENE OXIDE EMISSION-CONTROL SYSTEM
OPERATED BY STERIGENICS US, LLC.
AT ITS WILLOWBROOK II, ILLINOIS FACILITY

Submitted to:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
1021 North Grand Avenue East
Springfield, Illinois 62794

Submitted by:

STERIGENICS US, LLC.
830 Midway Drive
Willowbrook, Illinois 60521

I.D. Number 043110AAC

Prepared by:

ECSI, INC.
PO Box 1498
San Clemente, California 92674-1498

Prepared on:

August 24, 2018

ECSi

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TEST DATE

September 20-21, 2018

REGULATORY AGENCY

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TESTING CONTRACTOR

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7.0	QA/QC	10
7.1	Field Testing Quality Assurance	10
7.2	Calibration Procedures	10
8.0	FINAL TEST REPORT DESCRIPTION	11

ECSi

1.0 INTRODUCTION

ECSi, Inc. proposes to conduct air pollution source testing of the ethylene oxide (EtO) emission control system operated by Sterigenics US, LLC. at their Willowbrook II facility, located at 830 Midway Drive. The device to be tested is the two stage AAT Safe Cell packed tower scrubber/dry bed reactor emission-control system, which is used to control emissions from four sterilizer vacuum pumps, four sterilizer backvents and two aeration rooms. The purpose of the testing program will be to demonstrate compliance with backvent emission control requirements and the conditions established in the Air Quality Permit granted to Sterigenics by the Illinois Environmental Protection Agency (IEPA).

We have specialized exclusively in the performance of ethylene oxide source testing and leak testing since 1992, and are the nationally recognized expert in the field. When the current ethylene oxide emissions regulations were being implemented, we worked closely with the California Air Resources Board (CARB) and USEPA to help develop the currently used testing methodology.

2.0 EQUIPMENT

At Willowbrook I, sterilizer backvent emissions are controlled by:

- One two-stage Advanced Air Technologies Safe Cell emission-control system, comprised of a packed-tower chemical scrubber (SC1), equipped with a packed reaction/interface column, a scrubber fluid recirculation system, and a scrubber fluid reaction/storage tank, and a dry bed reactor/scrubber (SC2), comprised of a bank of solid-bed reaction vessels, connected in parallel, installed downstream of SC1 and upstream of a dedicated blower exhaust system.

3.0 TESTING

EtO source testing will be conducted in accordance with the procedures outlined in USEPA CFR40, Part 63.365, using USEPA Method 18 as specified. EtO emissions monitoring will be conducted simultaneously at the inlet and outlet of the Safe Cell System (the inlet of SC1 and the outlet of SC2) during the entire duration of the backvent phase of one of the four sterilizers. A total of three backvent-phase test runs will be performed.

During the backvent phase, EtO emissions at the inlet and the outlet of the Safe Cell System will be determined using direct source sample injection into a gas chromatograph (GC). All testing will be conducted during normal process load conditions. All backvent testing will be performed with freshly sterilized product in the sterilizer. The testing program will be conducted in accordance with the procedures outlined in the following sections.

4.0 RULE/COMPLIANCE REQUIREMENTS

The EtO gas-sterilization system at the Willowbrook I facility is being tested to demonstrate compliance with EPA requirements, as specified in the IEPA Air Quality Permit. The following requirements must be met:

- The sterilizer backvent phase emissions must be vented to control equipment with an EtO emission-reduction efficiency of at least 99 % by weight.

Testing is required to demonstrate compliance with these requirements. Source testing of the emission-control system is required initially, and may be required periodically thereafter.

5.0 TEST METHOD REFERENCE

5.1 INTRODUCTION

EtO source testing will be conducted in accordance with the procedures outlined in USEPA CFR40, Part 63.365, using USEPA Method 18 as specified. EtO emissions monitoring will be conducted simultaneously at the inlet and outlet of the Safe Cell System during the entire duration of the backvent phase of one of the four sterilizers. A total of three backvent-phase test runs will be performed.

During the backvent phase, EtO emissions at the inlet and the outlet of the Safe Cell System will be determined using direct source sample injection into a gas chromatograph (GC). All testing will be conducted during normal process load conditions. All backvent testing will be performed with freshly sterilized product in the sterilizer. The testing program will be conducted in accordance with the procedures outlined in the following sections.

Operation and documentation of process conditions will be performed by personnel from Sterigenics, Inc. using existing monitoring instruments installed by the manufacturer on the equipment to be tested. In accordance with the procedures established in USEPA CFR40, Part 63, Subpart O, scrubber liquor level will be recorded.

5.2 VOLUMETRIC FLOW MEASUREMENT

Exhaust gas flow at the outlet of SC2 will be determined by 40 CFR 60, Appendix A, Method 2C, using a standard pitot tube and an inclined-oil manometer. Sampling ports will be located in accordance with 40 CFR 60, Appendix A, Method 1. The test ports will be located far enough from any flow disturbances to permit accurate flow measurement.

Temperature measurements will be obtained from a type K thermocouple and thermometer attached to the sampling probe. Exhaust gas composition will be assumed to be >99% ambient air. Water vapor will be negligible and, based on previous test data, a default ambient value of 3 percent will be used for determination of exhaust gas composition and flow calculations.

5.3 CONTROL EFFICIENCY AND MASS EMISSIONS MEASUREMENT

The EtO concentration at the inlet and outlet of the Safe Cell System will be measured simultaneously following the procedures delineated in USEPA CFR40, Part 63.365. During backvent, vented gas will be analyzed by an SRI, Model 8610, portable gas chromatograph (GC), equipped with the following: dual, heated sample loops and injectors; dual columns; and dual detectors. A flame ionization detector (FID) will be used to quantify emissions at the emission-control device inlet, and a photoionization detector (PID) will be used to quantify emissions at the emission-control device outlet.

5.4 SAMPLE TRANSPORT

Source gas will be pumped to the GC at approximately 500-1000 cubic centimeters per minute (cc/min) from the sampling ports through two lengths of Teflon® sample line, each with a nominal volume of approximately 75 cubic centimeters (cc) and an outer diameter of 0.25 inch. At the outlet of SC2 the sampling ports will be located in the exhaust stack.

5.5 GC INJECTION

Source-gas samples will then be injected into the GC which will be equipped with two heated sampling loops, each containing a volume of approximately 2cc and maintained at 100 degrees Celsius (C). Injections will occur at approximately one-minute intervals during the sterilization chamber backvent phase. Helium will be the carrier gas for both FID and PID.

5.6 GC CONDITIONS

The packed columns for the GC will both be operated at 85 degrees C. The columns will be stainless steel, 6 feet long, 0.125 inch outer diameter, packed with 1 percent SP-1000 on 60/80 mesh Carbopack B.

Any unused sample gas will be vented from the GC system back to the inlet of the scrubber.

5.7 CALIBRATION STANDARDS

The FID used at the inlet will be calibrated for part-per-million-by-volume (ppmv)-level analyses using gas proportions similar to the following:

1) 100 ppmv EtO, balance nitrogen
2) 50 ppmv EtO, balance nitrogen (audit gas)
3) 10 ppmv EtO, balance nitrogen
4) 1 ppmv EtO, balance nitrogen

The PID used at the outlet will be calibrated for ppmv-level analyses using gas proportions similar to the following:

1) 100 ppmv EtO, balance nitrogen
2) 50 ppmv EtO, balance nitrogen (audit gas)
3) 10 ppmv EtO, balance nitrogen
4) 1 ppmv EtO, balance nitrogen

Each of these calibration standards will be in a separate, certified manufacturer's cylinder. Copies of the calibration gas laboratory certificates will be included with the final report.

5.8 SAMPLING DURATION

Backvent EtO measurements will be taken for the entire duration of the backvent phase, which will be 15 minutes. This will encompass a total sampling duration of 15 minutes for each backvent phase test run.

5.9 CONTROL-EFFICIENCY/MASS-EMISSIONS CALCULATIONS

Control efficiency of EtO will be calculated for the backvent phase. Control efficiency will be calculated for each data point which will be produced at each injection interval. The time-weighted-average (TWA) EtO control efficiency will be calculated using these results. Results of the control-efficiency testing will be summarized in the final report.

Mass emissions of EtO will be calculated using the following equation:

MassRate = (VolFlow)(MolWt)(ppmv EtO/10^6)/(MolVol)

Where:

MassRate = EtO mass flow rate, pounds per minute

VolFlow = Corrected volumetric flow rate, standard cubic feet per minute at 68 degrees F

MolWt =	44.05 pounds EtO per pound mole
ppmv EtO =	EtO concentration, parts per million by volume
10^6 =	Conversion factor, ppmv per "cubic foot per cubic foot"
MolVol =	385.32 cubic feet per pound mole at one atmosphere and 68 degrees F

Mass emissions of EtO will be calculated for backvent. The results will be summarized in the final report.

6.0 TEST SCENARIO

Backvent testing will be performed during normal process load conditions, with freshly sterilized product in the sterilizer. Three test runs will be conducted in series to verify the performance of the emission-control system. The testing schedule will be as follows:

- Equipment setup and gas chromatograph calibration.
- Backvent Test Run #1 is performed with freshly sterilized product in one of the four sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Backvent Test Run #2 is performed with freshly sterilized product in one of the four sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Backvent Test Run #3 is performed with freshly sterilized product in one of the four sterilizers. Sampling is performed at the inlet and outlet of the Safe Cell System.
- Post-calibration check performed and equipment breakdown.

7.0 QA/QC

7.1 FIELD TESTING QUALITY ASSURANCE

At the beginning of the test, the sampling system will be leak checked at a vacuum of 15 inches of mercury. The sampling system will be considered leak free when the flow indicated by the rotameters falls to zero.

At the beginning of the test, a system blank will be analyzed to ensure that the sampling system is free of EtO. Ambient air will be introduced at the end of the heated sampling line and drawn through the sampling system line to the GC for analysis. The resulting chromatogram also will provide a background level for non-EtO components (i.e. ambient air, carbon dioxide, water vapor) which are present in the source gas stream due to the ambient dilution air which is drawn into the emission-control device. This chromatogram, designated AMB, will be included with the calibration data in the final report.

7.2 CALIBRATION PROCEDURES

The GC system will be calibrated at the beginning and conclusion of each day's testing. Using the Peaksimple II analytical software, a point-to-point calibration curve will be constructed for each detector. A gas cylinder of similar composition as the calibration gases, but certified by a separate supplier, will be used to verify calibration gas composition and GC performance.

All calibration gases and support gases used will be of the highest purity and quality available. A copy of the laboratory certification for each calibration gas will be included in the final report.

8.0 FINAL TEST REPORT DESCRIPTION

The test results will be summarized in a written report. This report will be submitted to the IEPA no later than sixty days after the conclusion of the field testing. It will include results for EtO control efficiency of the emission-control device and mass emissions of EtO to the atmosphere from the emission-control device outlet. The report will contain:

- Summary tables with comparisons of the test results to rule limits;
- Copies of all intermediate data tables and calculation worksheets;
- Copies of all GC chromatograms from calibration runs and sample injections; and
- Laboratory calibration certificates for all calibration and audit gases and all applicable measurement instruments such as pitot tubes and thermocouples.

Message

From: Konkus, John [konkus.john@epa.gov]
Sent: 9/14/2018 8:04:56 PM
To: Annie Snider [asnider@politico.com]
Subject: Re: Architect of controversial EPA science policies to leave

None of the articles you liked to mention Richard. Except for the one on his emails which do not back up any of the claims highlighted.

Sent from my iPhone

On Sep 14, 2018, at 4:03 PM, Annie Snider <asnider@politico.com> wrote:

> John, I am on a call at the moment, I will circle back when I am off. But this is all based on previous reporting, much of which is linked here, which was based on emails released under FOIA, largely to the Union of Concerned Scientists.
>
> Sent from my iPhone
>
> On Sep 14, 2018, at 4:00 PM, Konkus, John <konkus.john@epa.gov> wrote:
>
>> Annie: Per my voice message, your assertions in this piece about Richard's work at EPA are wrong and you provide zero citations for your claims highlighted below. We are asking you to either provide factual citations to back your reporting or remove these statements from your piece and send an update.
>>
>> John Konkus
>> Environmental Protection Agency
>> Deputy Associate Administrator for Public Affairs
>> Mobile: (202) 365-9250
>>
>> Begin forwarded message:
>>
>>> **From:** "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
>>> **Date:** September 14, 2018 at 3:09:23 PM EDT
>>> **Subject: Architect of controversial EPA science policies to leave**
>>> **Reply-To:** "POLITICO subscriptions" <reply-fe8d13767266047a70-1159543_HTML-786581600-1376319-0@politicoemail.com>
>>>
>>> By Annie Snider
>>>
>>> 09/14/2018 03:07 PM EDT
>>>
>>> The architect of the Trump EPA's most controversial science policies is leaving the agency.
>>>
>>> Richard Yamada, who headed the Office of Research and Development and crafted the Trump administration's controversial policy to limit the agency's use of health studies, will leave his post, the agency's press office confirmed.

"Richard has been a valuable member of the EPA team. I'm sorry to see him leave, but he has an exciting new opportunity, and we all wish him the best in his next endeavor," Acting Administrator Andrew Wheeler said in a statement.

Yamada came from House Science Committee Chairman Lamar Smith's office and has led efforts to administratively implement one of Smith's major legislative priorities, a policy requiring all studies the agency relies on in regulatory decisions to have publicly available raw data. The Trump administration argues it is a matter of transparency, but critics contend that it is a thinly veiled effort to limit the use of studies showing the effects of pollution on human health.

POLITICO reported this spring on internal emails in which Yamada replied to concerns raised by Nancy Beck, the top political official in the agency's chemical safety office, about the policy's effect on EPA's ability to use confidential business information, in which Yamada replied "We will need to thread this one real tight!"

Yamada also was involved in the agency's efforts to keep a CDC study on the health effects of nonstick chemicals under wraps, POLITICO previously reported, as well as an EPA study linking formaldehyde with leukemia.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/09/architect-of-controversial-epa-science-policies-to-leave-1930324

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This email was sent to jackson.ryan@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Brent Fewell [brent.fewell@earthandwatergroup.com]
Sent: 9/10/2018 7:04:49 PM
To: Ross, David [Ross.David@epa.gov]
CC: Penman, Crystal [Penman.Crystal@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
Subject: Invitation to Speak - NAWC Summit, Oct. 9
Attachments: Wheeler Invite 82018.pdf

Hey Dave,

Hope this note finds you well. I understand that Wheeler isn't able to join National Association of Water Company's annual meeting in San Antonia, Texas, on Oct. 9. Rob Powelson, NAWC's new President (he just left FERC), was really hoping that you would be able to join us in Andrew's absence. Would be great to have you join us. This is a widely attended gathering, friendly group and a number of NARUC commissioners will also be in attendance. Happy to provide you with more details.

Brent

From: Colleen Newman
Sent: Monday, August 13, 2018 2:50 PM
To: 'wheeler.andrew@epa.gov' <wheeler.andrew@epa.gov>
Subject: Invitation to speak at NAWC's Annual Summit in San Antonio, TX in October

Acting Administrator Wheeler:

NAWC's President and CEO Rob Powelson would like to invite you to speak at the National Association of Water Company's Annual Summit in San Antonio, TX on October 9. Please let me know if you have any questions and thank you for your consideration.

Sincerely,

Colleen Newman
Director, Government Relations
NAWC
202 368-3296

NAWC
National Association of Water Companies

MOVING WATER FORWARD

2001 L Street, NW, Suite 850 • Washington, DC 20036 • t 202.833.8383 • f 202.331.7442 • www.nawc.org

August 13, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Mail Code 1101 A
Washington DC 20460

Dear Acting Administrator Wheeler:

It is my pleasure to invite you to be our luncheon speaker at our upcoming 2018 NAWC Water Summit on **Tuesday, October 9, 2018**. The Summit will be held at the Hyatt Regency Hill Country in San Antonio.

This annual two-day event (October 8-9, 2018) is attended by approximately 300 senior-level water company executives, public utility commissioners, environmental regulators, state legislators and other key stakeholders.

Highlights of this year's agenda will include:

- Sessions on key regulatory and legislative challenges and opportunities impacting the industry
- Texas-specific case studies showcasing how a partnership with an NAWC member company can provide a lifeline for distressed water and wastewater utilities
- The latest research demonstrating the stellar compliance record of NAWC member companies
- Several opportunities to hear the perspective of regulators, legislators, and consumer advocates on effective water policy.

At the luncheon we would like you to make remarks that highlight EPA's agenda for the water sector.

As you may know, NAWC members provide 73 million Americans with safe and reliable water service every day. We have a strong and growing presence in Texas and these companies share a dedication to their customers, securing their quality of life, and contributing to the economic prosperity of the communities where they serve.

I am copying NAWC's Director of Government Relations, Colleen Newman. She will be able to provide you with additional details and coordinate with your staff. Colleen can be reached by phone at (202) 368-3296 or via email at colleen@nawc.com.

Thank you for your consideration of our request.

Sincerely,

Robert F. Powelson
President and CEO
National Association of Water Companies

Message

From: Beau Greenwood [BGreenwood@croplifeamerica.org]
Sent: 9/10/2018 2:05:38 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Fred Bosco [FBosco@croplifeamerica.org]
Subject: Meeting request

Hi Ryan. Hope and that this email finds you well?

I have new CEO at CropLife America that I am working to get integrated to all that is going on...

Are you around over the next couple of weeks for the two of us to get together and talk?

Beau.

Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/4/2018 5:55:44 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Sterigencis Response Letter is Posted

As posted.

http://www.willowbrookil.org/DocumentCenter/View/1395

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

Message

From: Lorman Education [customerservice@lormaneducationwebinars.com]
Sent: 8/30/2018 7:11:09 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Understand the challenges of idle and inactive wells.

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This commercial email was sent to jackson.ryan@epa.gov. Unsubscribe. Call 1-866-352-9539 for assistance.

Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/4/2018 12:36:30 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Issue
Attachments: doc01426420180831135614.pdf

As discussed.

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

VILLAGE OF WILLOWBROOK
EST. 1960

Willowbrook

835 Midway Drive
Willowbrook, IL 60527-5549

Phone: (630) 323-8215 Fax: (630) 323-0787 www.willowbrookil.org

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Frank A. Trilla

Village Clerk

Leroy R. Hansen

Village Trustees

Sue Berglund

Umberto Davi

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Michael Mistele

Gayle Neal

Paul Oggerino

Village Administrator

Tim Halik

Chief of Police

Robert Schaller

Director of Finance

Carrie Dittman

August 31, 2018

Sent Via E-Mail and USPS

Kathleen Hoffman, SVP, EH&S and Technical Services
Sterigenics
2015 Spring Road, Suite 650
Oakbrook, IL 60523

Dear Ms. Hoffman:

Recent news reports and discussions at a town meeting this past week have us greatly concerned about the safe operation of your Sterigenics facility in Willowbrook. New research from the USEPA indicates that ethylene oxide is far more dangerous to the public than previously believed.

Given the new revelations about the dangers of ethylene oxide, we strongly encourage you to cease operations at the Willowbrook facility until proper safeguards are put in place, and follow up air quality testing on those safeguards are completed, to ensure the health and safety of people who live, work, shop, attend school or conduct any other activities in the area. It is imperative that the community be assured that you are acting as a good corporate citizen and are taking all steps necessary to protect those who are potentially impacted by the emissions of ethylene oxide from your facility.

We are also conferring with the Attorney General, the Illinois Environmental Protection Agency and the United States Environmental Protection Agency and will be working with them to make sure they have all regulatory and enforcement tools necessary to protect the public health & safety.

Sincerely,

John F. Curran
State Senator, 41st District

Jim Durkin
House Minority Leader, 82nd District

Frank A. Trilla
Mayor, Village of Willowbrook

Kathleen Weaver
Mayor, City of Darien

Dan Cronin
Chairman, DuPage County Board

Greg Hart
DuPage County Board District 3

Gary Grasso
DuPage County Board District 3

Brian J. Krajewski
DuPage County Board District 3

Proud Member of the Illinois Route 66 Scenic Byway

Message

From: Williams, Brendan [Brendan.Williams@pbfenergy.com]
Sent: 8/23/2018 4:55:05 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Catching Up

Ryan-

Hope all is well. Left you a voicemail, but figured I'd follow up with an email too. Any chance you are around to catch up briefly either tomorrow morning or next week? Wanted to get your thoughts on an issue. Please let me know if there is a day/time that works well for you whenever you get a chance.

Thanks,

Brendan Williams
Government Relations
PBF Energy
601 Pennsylvania Avenue, NW
Suite 900 South
Washington, DC 20004
O: (202) 434-8254
M: (703) 863-6825
brendan.williams@pbfenergy.com
www.pbfenergy.com

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Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/5/2018 8:34:06 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: USE THIS VERSION
Attachments: Willowbrook IL Ethylene Oxide (00250439-6xAA4DC).docx

Ryan,

There was an error on the first version I sent. This version is correct.

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

The Willowbrook, IL, Ethylene Oxide Facility Controls EO Emissions with State-of-the-Art Technology

Sterigenics International Inc.'s facility located in Willowbrook, Illinois, uses ethylene oxide (EO) to sterilize medical equipment and other products. The facility consists of two buildings: Willowbrook 1 (WB1) and Willowbrook 2 (WB2). Before outlining the facility's state-of the-art emission control technology, we outline the benefits of EO.

EO Is Essential to Public Health

EO has played a critical role in antimicrobial sterilization that protects public health and is essential to a functioning U.S. healthcare system. EO is now used to sterilize more than 20 billion medical devices each year in the U.S. This represents more than 50 percent of all medical devices sterilized annually. EO sterilization is critical in the safe delivery of sterile devices and medical care. The use of EO sterilization provides unparalleled benefits to society by its use throughout the medical community.

Medical, hospital, and laboratory processes rely on EO to sterilize devices and equipment to protect millions of patients from the real risks of infectious diseases caused by bacteria, viruses, and fungi. For most healthcare products, EO sterilization is the most effective and efficient sterilization technology. The relatively low temperatures at which the EO sterilization occurs provide the medical community significant advantages when sterilizing devices and products. Many critical healthcare products are complex and sophisticated devices that are heat and/or moisture sensitive. EO allows for the sterilization of many critical healthcare products and devices that would otherwise be destroyed and rendered unusable by radiation, moist heat, dry heat, other chemicals, or other alternative sterilization methods. In fact, many of these devices can only be sterilized by EO with no practical alternatives currently available.

The use of less effective processing methods can have *significant adverse public health consequences.* A change in sterilization technology could introduce the real risks of increased morbidity and mortality. In many cases, any change to the sterilization method would require a complete redesign of the product to be sterilized. Even a redesign may not allow the product to be sterilized adequately without the use of EO. It is not feasible for medical device manufacturers to change to alternative sterilization methods quickly. Changes to sterilization technology may cause delays, inadequate sterilization, increased risks to public health, the inability to perform certain medical procedures, increased morbidity and mortality, and increased healthcare costs.

Willowbrook EO Emission Control Technology

The Willowbrook facility is subject to regulation under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for EO sterilization facilities promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to its authority under Section 112 of the Clean Air Act (CAA). 40 C.F.R. Part 63, Subpart O. Although it is considered an area

source under the CAA, the facility's emissions are controlled pursuant to a CAA Title V permit administered by the Illinois Environmental Protection Agency (IEPA). This permit authorizes more than 1 million pounds in EO usage by the facility, but Willowbrook's actual usage is more than 50% below that limit.

The NESHAP standards generally require a 99% reduction of EO emissions from several sources. The Willowbrook facility uses state-of-the-art emission controls that *exceed* the 99% required efficiency. The last compliance test for current controls were 99.9996% (for WB1 vacuum pump emissions), 99.98% (for WB1 aeration emissions), 99.96% (for WB2 vacuum pump emissions), and 99.94% (for WB2 aeration emissions). Each of these control levels is at least an *order of magnitude better* than what is legally required.

Sterigenics recently completed a *voluntary* major capital upgrade to reduce emissions from the sterilizer back vents in both WB1 and WB2. This project has resulted in a reduction of back vent emissions from those two sources by 99%. Prior to this voluntary upgrade, these two sources emitted 4,237 pounds of EO per year, and the upgrade will reduce these back vent emissions to 42 pounds of EO per year. Sterigenics had been discussing this project with IEPA for months prior to the release of the ill-fated and misleading Agency for Toxic Substances and Disease Registry (ATSDR) report.

Sterigenics had identified and shared with the United States EPA Region 5 concerns with the EO sampling that it conducted:

- The sampling consisted of a <u>single</u> sampling set of data collected over two days in 2017 and is therefore inadequate to characterize potential long-term exposures.

- EPA did not consider any EO background levels.

- The use of the single maximum concentration (9.1 $\mu g/m^3$ from a 12-hour sample reportedly taken at a roof top located directly behind the Sterigenics facility at an elevation of 30 feet above ground) is not representative of potential long-term occupational exposures at nearby commercial sites.

- The use of the single 12-hour concentration measured in a residential area (2.1 $\mu g/m^3$) is not appropriate for characterizing potential long-term residential exposures.

- ATSDR acknowledged that extrapolating the maximum measured concentrations from this extremely limited dataset to periods of 25 years for occupational exposures and 33 years for residential exposures is inappropriate, but the resulting misleading risk estimates were nonetheless included in the report.

Message

From: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
Sent: 9/7/2018 6:47:53 PM
To: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: RE:

I just don't know. I am awaiting an E&C offer on drinking water I don't have.

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Friday, September 7, 2018 2:44 PM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; 'Jackson, Ryan' <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

I meant today actually

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

-----Original Message-----
From: Repko, Mary Frances (EPW)
Sent: Friday, September 7, 2018 2:40 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; 'Jackson, Ryan' <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE:

On Monday? Yes.

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Friday, September 7, 2018 2:39 PM
To: 'Jackson, Ryan' <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Cc: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Subject: RE:

5 pm eastern an option for you guys?

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

-----Original Message-----
From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Friday, September 7, 2018 2:26 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Subject: Re:

I'm in Denver Monday.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

> On Sep 7, 2018, at 12:25 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:
>
> How about we connect on Monday?
>

>
>
> Sent from my iPhone
>
>> On Sep 7, 2018, at 12:22 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> I think I’ve messed up the times being on Montana time and just missed a good window.
>>
>>
>>
>>
>>
>>
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> 202-564-6999
>>
>>
>>> On Sep 7, 2018, at 8:58 AM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:
>>>
>>> Thanks for that!
>>>
>>> We are open from 11:30-2 and 4:30-5:30 unless MF needs to deal with WRDA unexpectedly.
>>>
>>> What works for you?
>>>
>>> Sent from my iPhone
>>>
>>>> On Sep 7, 2018, at 10:51 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>
>>>> Congratulations on Thursday night. I wanted to wait until the smoke cleared but Troy and I wanted to get in the phone with you to talk nominations.
>>>>
>>>>
>>>>
>>>>
>>>>
>>>>
>>>>
>>>> Ryan Jackson
>>>> Chief of Staff
>>>> U.S. EPA
>>>> 202-564-6999
>>>>

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 9/7/2018 9:31:19 PM
To: Lyons, Troy [lyons.troy@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
CC: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
Subject: 07.23.2018 Senate Letter to EPA Regarding Grassroots Technical Assistanc.._.pdf
Attachments: 07.23.2018 Senate Letter to EPA Regarding Grassroots Technical Assistanc.._.pdf

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RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

July 23, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

We write to urge the Environmental Protection Agency (EPA) to adhere to the Congressional intent of the *Grassroots Rural and Small Community Water Systems Assistance Act* (PL 114-98). Under the law, EPA must give preference to both the organizations and the type of assistance that small and rural communities find most beneficial and effective when awarding drinking water technical assistance grants.

PL 114-98 authorizes crucial funding for technical assistance under the Safe Drinking Water Act, so that our small and rural communities can comply with EPA's regulations. The most effective form of technical assistance for these small and rural water systems are full-time, regional onsite technical assistance providers (i.e. circuit riders). This allows trusted and experienced individuals to travel to the communities and train them face-to-face on how to deal with their specific treatment and compliance issues. These onsite technicians are crucial to assisting small and rural communities in providing safe drinking water to residents and businesses in their areas.

In 2015, Congress unanimously passed the *Grassroots Rural and Small Community Water Systems Assistance Act* (PL 114-98). PL 114-98 specifies that the Administrator "should prioritize the types of technical assistance that are most beneficial to those communities, based on the input from those communities." Additionally, the law requires the Administrator to give preference to the most qualified and experienced non-profit organizations "that the small community water systems in the state find to be the most beneficial and effective."

We were hopeful that the implementation of PL 114-98 would soon reestablish onsite technical assistance in our states and that the EPA would prioritize small and rural communities' preferences in awarding the grants. Your agency wrote a letter in July 2017 emphasizing the effectiveness of onsite assistance and the importance of local support. However, the EPA's request for applications for these technical assistance grants published October 20, 2017 did not mention the PL 114-98 provisions governing the grants. EPA also does not appear to have considered community preferences in the funding it awarded in April of this year.

Onsite technical assistance has been significantly reduced and now this assistance is becoming increasingly remote. EPA is ignoring small and rural communities' preferences for technical assistance organizations. As a result, EPA has awarded grants to organizations that are not

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located near the community requiring compliance assistance. The organizations are therefore unable to provide the frequent onsite assistance needed. This form of remote assistance is not helpful, nor effective, in assisting communities to provide safe drinking water.

We believe that our local communities know what organizations best help them and their preferences must be the predominant consideration when awarding these technical assistance grants. We urge you to follow both the law and the clear Congressional intent when implementing this important technical assistance grant program. Thank you for your assistance and attention to the needs of small and rural communities.

Sincerely,

John Barrasso, M.D.
Chairman

Tom Carper
Ranking Member

Shelley Moore Capito
United States Senator

Heidi Heitkamp
United States Senator

John Boozman
United States Senator

Roger F. Wicker
United States Senator

Tina Smith
United States Senator

John Thune
United States Senator

Tammy Duckworth
United States Senator

Joe Manchin III
United States Senator

Amy Klobuchar
United States Senator

Tammy Baldwin
United States Senator

Joni K. Ernst
United States Senator

M. Michael Rounds
United States Senator

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United States Senator

Jerry Moran
United States Senator

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United States Senator

Bernard Sanders
United States Senator

Patrick J. Leahy
United States Senator

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United States Senator

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United States Senator

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United States Senator

Susan M. Collins
United States Senator

Sheldon Whitehouse
United States Senator

Claire McCaskill
United States Senator

James M. Inhofe
United States Senator

Bill Cassidy, M.D.
United States Senator

Deb Fischer
United States Senator

Jeffrey A. Merkley
United States Senator

Dan Sullivan
United States Senator

Richard C. Shelby
United States Senator

Kirsten Gillibrand
United States Senator

Benjamin L. Cardin
United States Senator

Cory A. Booker
United States Senator

Edward J. Markey
United States Senator

Lindsey O. Graham
United States Senator

Christopher A. Coons
United States Senator

Cindy Hyde-Smith
United States Senator

Roy Blunt
United States Senator

Message

From: Lynn L. Bergeson [lbergeson@lawbc.com]
Sent: 9/5/2018 8:02:29 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: EO Issue
Attachments: 00250439.docx

As promised

LYNN L. BERGESON
MANAGING PARTNER
BERGESON & CAMPBELL PC
2200 Pennsylvania Avenue, N.W. Suite 100W | Washington, D.C. 20037
T: 202-557-3801 | F: 202-557-3836 | M: 202-257-2872 | lawbc.com

The Willowbrook, IL, Ethylene Oxide Facility Controls EO Emissions with State-of-the-Art Technology

Sterigenics International Inc.'s facility located in Willowbrook, Illinois, uses ethylene oxide (EO) to sterilize medical equipment and other products. The facility consists of two buildings: Willowbrook 1 (WB1) and Willowbrook 2 (WB2). Before outlining the facility's state-of the-art emission control technology, we outline the benefits of EO.

EO Is Essential to Public Health

EO has played a critical role in antimicrobial sterilization that protects public health and is essential to a functioning U.S. healthcare system. EO is now used to sterilize more than 20 billion medical devices each year in the U.S. This represents more than 50 percent of all medical devices sterilized annually. EO sterilization is critical in the safe delivery of sterile devices and medical care. The use of EO sterilization provides unparalleled benefits to society by its use throughout the medical community.

Medical, hospital, and laboratory processes rely on EO to sterilize devices and equipment to protect millions of patients from the real risks of infectious diseases caused by bacteria, viruses, and fungi. For most healthcare products, EO sterilization is the most effective and efficient sterilization technology. The relatively low temperatures at which the EO sterilization occurs provide the medical community significant advantages when sterilizing devices and products. Many critical healthcare products are complex and sophisticated devices that are heat and/or moisture sensitive. EO allows for the sterilization of many critical healthcare products and devices that would otherwise be destroyed and rendered unusable by radiation, moist heat, dry heat, other chemicals, or other alternative sterilization methods. In fact, many of these devices can only be sterilized by EO with no practical alternatives currently available.

The use of less effective processing methods can have *significant adverse public health consequences.* A change in sterilization technology could introduce the real risks of increased morbidity and mortality. In many cases, any change to the sterilization method would require a complete redesign of the product to be sterilized. Even a redesign may not allow the product to be sterilized adequately without the use of EO. It is not feasible for medical device manufacturers to change to alternative sterilization methods quickly. Changes to sterilization technology may cause delays, inadequate sterilization, increased risks to public health, the inability to perform certain medical procedures, increased morbidity and mortality, and increased healthcare costs.

Willowbrook EO Emission Control Technology

The Willowbrook facility is subject to regulation under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for EO sterilization facilities promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to its authority under Section 112 of the Clean Air Act (CAA). 40 C.F.R. Part 63, Subpart O. Although it is considered an area

source under the CAA, the facility's emissions are controlled pursuant to a CAA Title V permit administered by the Illinois Environmental Projection Agency (IEPA). This permit authorizes more than 1 million pounds in EO usage by the facility, but Willowbrook's actual usage is more than 50% below that limit.

The NESHAP standards generally require a 99% reduction of EO emissions from several sources. The Willowbrook facility uses state-of-the-art emission controls that *exceed* the 99% required efficiency. The last compliance test for current controls were 99.9996% (for WB1 vacuum pump emissions), 99.98% (for WB1 aeration emissions), 99.96% (for WB2 vacuum pump emissions), and 99.94% (for WB2 aeration emissions). Each of these control levels is at least an *order of magnitude better* than what is legally required.

Sterigenics recently completed a *voluntary* major capital upgrade to reduce emissions from the sterilizer back vents in both WB1 and WB2. This project has resulted in a reduction of back vent emissions from those two sources by 99%. Prior to this voluntary upgrade, these two sources emitted 4,237 pounds of EO per year, and the upgrade will reduce these back vent emissions to 42 pounds of EO per year. Sterigenics had been discussing this project with IEPA for months prior to the release of the ill-fated and misleading Agency for Toxic Substances and Disease Registry (ATSDR) report.

Sterigenics had identified and shared with the United States EPA Region 5 concerns with the EO sampling that it conducted:

- The sampling consisted of a <u>single</u> sampling set of data collected over two days in 2017 and is therefore inadequate to characterize potential long-term exposures.

- EPA did not consider any EO background levels.

- The use of the single maximum concentration (9.1 $\mu g/m^3$ from a 12-hour sample reportedly taken at a roof top located directly behind the Sterigenics facility at an elevation of 30 feet above ground) is not representative of potential long-term occupational exposures at nearby commercial sites or residences.

- The use of the single 12-hour concentration measured in a residential area (2.1 $\mu g/m^3$) is not appropriate for characterizing potential long-term residential exposures.

- ATSDR acknowledged that extrapolating the maximum measured concentrations from this extremely limited dataset to periods of 25 years for occupational exposures and 33 years for residential exposures is inappropriate, but the resulting misleading risk estimates were nonetheless included in the report.

Message

From: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
Sent: 9/7/2018 9:24:40 PM
To: Lyons, Troy [lyons.troy@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: Re:

Your website https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms says:

"EPCRA Reporting Requirements

Based on the criteria for EPCRA section 304 release reporting, air emissions from animal waste at farms do not need to be reported under EPCRA because these types of releases are now exempt from reporting under CERCLA. For more information, please see: EPCRA Q&A.
EPA is working on a proposed rule to amend the release notification regulations under EPCRA to codify the agency's interpretation that air emissions from animal waste at farms are not subject to EPCRA reporting."
What we are saying is that Congress was clear that it did not intend to exempt CAFOs from both EPCRA and CERCLA. I can resend the leg history. We think the current guidance that EPCRA reporting is required (which has been the case since the late 90s) should be maintained.

Mary Frances Repko
Minority Staff Director
U.S. Senate Committee on Environment and Public Works

On Sep 7, 2018, at 2:25 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> How about we connect on Monday?
>
> Sent from my iPhone
>
> > On Sep 7, 2018, at 12:22 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
> >
> > I think I've messed up the times being on Montana time and just missed a good window.
> >
> > Ryan Jackson
> > Chief of Staff

U.S. EPA
202-564-6999

On Sep 7, 2018, at 8:58 AM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:

Thanks for that!

We are open from 11:30-2 and 4:30-5:30 unless MF needs to deal with WRDA unexpectedly.

What works for you?

Sent from my iPhone

> On Sep 7, 2018, at 10:51 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> Congratulations on Thursday night. I wanted to wait until the smoke cleared but Troy and I wanted to get in the phone with you to talk nominations.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

Message

From: Brent Fewell [brent.fewell@earthandwatergroup.com]
Sent: 8/31/2018 9:37:13 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Fwd: Invitation to speak at NAWC's Annual Summit in San Antonio, TX in October

Hey Ryan, great to see you today. Looks like NAWC got a no for Wheeler invitation (See email thread below from Aaron). Could you double check and make sure that it got the appropriate review. Will completely understand if he has a conflict. And, if he does, it would be great to have Dave Ross there in his place.

Many thanks.

Brent

Get Outlook for iOS

From: Colleen Newman <colleen@nawc.com>
Sent: Friday, August 31, 2018 5:33 PM
To: Brent Fewell
Subject: Fwd: Invitation to speak at NAWC's Annual Summit in San Antonio, TX in October

Colleen Newman
Director, Government Relations
NAWC
202 368-3296

Begin forwarded message:

> **From:** "Dickerson, Aaron" <dickerson.aaron@epa.gov>
> **Date:** August 30, 2018 at 12:41:14 PM EDT
> **To:** "colleen@nawc.com" <colleen@nawc.com>
> **Subject: RE: Invitation to speak at NAWC's Annual Summit in San Antonio, TX in October**
>
> Good afternoon Colleen,
>
> Thanks for inviting Acting Administrator Wheeler to speak at NAWC's annual summit in San Antonio on October 9. Unfortunately, due to other commitments, he will not be able to participate. However, I will forward this request to our Assistant Administrator for Water, David Ross, to see if he is available to speak on behalf of the Administrator. His office will be in direct contact with you. Thanks again for the invitation and please keep Acting Administrator Wheeler in mind for future events.
>
> Aaron Dickerson
> Office of the Administrator
> U.S EPA

From: Colleen Newman [mailto:colleen@nawc.com]
Sent: Monday, August 13, 2018 2:50 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: Invitation to speak at NAWC's Annual Summit in San Antonio, TX in October

Acting Administrator Wheeler:

NAWC's President and CEO Rob Powelson would like to invite you to speak at the National Association of Water Company's Annual Summit in San Antonio, TX on October 9. Please let me know if you have any questions and thank you for your consideration.

Sincerely,

Colleen Newman
Director, Government Relations
NAWC
202 368-3296

Message

From: Deborah Hohlt, Federal Relations - Office of Gov. Eric Holcomb [deborah=indianagr.com@mail211.atl171.mcdlv.net]
on behalf of Deborah Hohlt, Federal Relations - Office of Gov. Eric Holcomb [deborah@indianagr.com]
Sent: 9/12/2018 8:12:15 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Indiana's No Drama, Effective Governor Eric Holcomb

Indiana's No Drama, Effective Governor Eric Holcomb

View this email in your browser

Eric Holcomb — Indiana's no drama, quietly effective governor

Published Sept. 11, 2018 in the Indianapolis Star Online
https://www.indystar.com/story/opinion/columnists/tim-swarens/2018/09/11/indiana-governor-eric-holcomb-no-drama-quietly-effective-governor-says-tim-swarens/1256354002/

By Tim Swarens

In this age of hyper-partisanship, Democrats aren't supposed to say nice things about Republican leaders, and vice versa.

Yet, on Fox 59's "In Focus" this week, former Indiana Democratic Party spokeswoman Jennifer Wagner offered a high compliment of Indiana's Eric Holcomb: He's the No Drama Governor.

That's a perfect description of Holcomb. He's not flashy or trendy, and for that reason, unlikely to make many national lists of rising stars in the Republican Party.

But he is steady, pragmatic and quietly effective at a time when those traits are less common but more valuable than ever.

Take last week as a prime example.

On Tuesday, Holcomb introduced a plan to spend $1 billion on completing I-69 ahead of schedule, further upgrading U.S. 31, improving U.S. 20 and 30, attracting more direct international flights to Indianapolis, pushing broadband service to rural areas, and building more hiking and biking trails.

All of that will be accomplished without a general tax increase. Instead, trucking companies will pay higher user fees on the Indiana Toll Road. Even then, those fees will remain lower than in most other states with toll roads, including Illinois.

I suspect most Hoosiers overlooked the practical importance of these investments in the state's infrastructure and quality of life precisely because they aren't controversial. Social media didn't blow up. No one marched on the Statehouse. Democrats had to dust off a blast from the past, former House Speaker Pat Bauer, to find someone critical of Holcomb's move.

But the decision was classic Eric Holcomb. Practical. Efficient. Quiet.

We need more of that type of leadership in our state and across the nation. We definitely need more of it in Washington, where over-the-top antics have become the daily standard (witness President Trump's all-drama, all-the-time approach and Democratic senators' ridiculous charades at Supreme Court nominee Brett Kavanaugh's hearing last week).

Two years ago, when he was running for governor, Holcomb was a first-time candidate and still largely unknown around the state. He had served as a top

aide to Gov. Mitch Daniels, led the state Republican Party and been tapped by Gov. Mike Pence as his number two after Lt. Gov. Sue Ellspermann left the administration to lead Ivy Tech.

But there were legitimate questions about whether he would follow in the path of the more practical Daniels or the ideological Pence. The answer became clear not long after Holcomb's inauguration.

Now, every leadership style has its downside. No drama is refreshing in the era of "the enemy is evil" politics. It also can mean, however, that important messages are drowned out at a time when the loudest voices are often the most rewarded in politics, the news media and the popular culture.

If there's one issue where Holcomb needs to be louder and more aggressive, it's in pushing Hoosiers to get the education and to build the skills needed to succeed in the modern workplace.

So many of our state's problems could be significantly reduced if Indiana's workforce were better equipped to handle jobs that require higher level skills. The state's future — and the future of millions of Hoosiers — would look much brighter.

It's not a new issue. Every governor since at least Frank O'Bannon 20 years ago has made workforce training a priority. But the state still has far to go and the time frame for avoiding a hard crash is narrowing as advances are made in robotics, self-driving vehicles and other forms of automation.

Every 30-year-old who now makes $16 an hour working at a warehouse in Boone or Hendricks counties needs to be told clearly, unmistakably that the time to prepare for the age of automation is now.

Eric Holcomb ought to give himself permission to be as loud and pushy about that message as necessary.

No drama is good. But sometimes leaders need to raise a fuss.

Contact Swarens at tim.swarens@indystar.com; friend him on Facebook at Tim Swarens; follow him on Twitter @tswarens.

###

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Washington, District of Columbia 20004

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You can update your preferences or unsubscribe from this list

Message

From: Updated OMB Guidance on Internal Controls [Workshop@PotomacForum-InternalControls.org]
Sent: 8/23/2018 4:33:25 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Next Tues: Aug 28th: New Internal Controls Guidance from OMB

- Register- Next Tues - Aug 28th Latest in Internal Controls for Government -
- Please Forward to Others in Your Agency -

Internal Controls Over Reporting (ICOR), Enterprise Risk Management (ERM) and Program Integrity in Government Training Workshop:

What Federal executives, managers and practitioners need to know to convert compliance efforts into program advantage by incorporating the updated OMB Circular A-123, Appendix A and Appendix C as well as Yellow Book requirements that define management's responsibility for risk management-

Tuesday August 28,2018
Willard InterContinental Hotel
Washington, D.C.

Sponsored by:
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info@PotomacForum.org
(703) 683-1613

Government Keynote Speaker
Dr. Douglas Webster

Chief Financial Officer
Department of Education

Additional Government Speakers:

Scott Gaines, Policy Analyst
Office of Management and Budget (OMB)

Bernice Lemaire
Chief Auditor
Office of Benefits Administration
Pension Benefit Guaranty Corporation (PBGC)
(awaiting agency confirmation

Jason Leecost
Director of Operational Risk Analysis Division
Office of Enterprise Risk, Ginnie Mae

Athena Elliott
Director
Office of Management Services
Indian Health Service

New Speaker Just Announced:
Curtis McNeil
Enterprise Risk Program (ERPM)
Architect of the Capitol

Overview:

With the recent updates to key standards and revisions to Office of Management and Budget (OMB) Circular No. A-123 (A-123) Management's Responsibility for Enterprise Risk Management (ERM) and Internal Control, released on July 15, 2016 with OMB Memorandum M-16-17, M-18-16 (Appendix A, Management of Reporting and Data Integrity Risk) that was issued June 6, 2018 and M-18-20 (Appendix C, Requirements for Payment Integrity Improvement), that was issued on June 26, 2018, this will be an advanced level risk management workshop focusing on what agencies and Departments have done the last year in relation to the requirements that defines management's responsibility for internal control with an emphasis on integrating Enterprise Risk Management (ERM) and what they plan to do going forward to comply with the Appendix A and Appendix C updates. There will be a focus on best practices and what other agencies and Departments can to do move their risk management efforts forward.

In addition to the A-123 updates, we will discuss the recent updates to the Yellow Book, the Preeminent Standards for Government Auditing, released on July 17, 2018 and what that means for non-auditors.

This workshop is designed for the front-line practitioner, manager, or executive who is responsible for sustaining an effective internal controls and risk management program and who is charged in implementing the updated requirements of OMB A-123, including the two Appendices.

Why You Should Attend:
With limited resources, federal agencies are focused on administering internal control programs that are efficient and effective, avoiding duplication and minimizing the burden on staff. With several new requirements issued within the last several around strengthening internal controls, risk management and fraud risk assessments; it is even more important to avoid duplication of efforts.

Participants will learn how to efficiently and effectively strengthen an internal control and risk management program while complying with the new requirements of OMB A-123, GAO Green Book, GAO Fraud Risk Assessment and ERM.

The focus of this workshop will be on efficiently meeting the updated internal control and risk management requirements in an efficient and effective way.

What You Will Learn:
- **Practical Information from Practitioners - Not Theory**
- **Presentations by experts with extensive, practical experience**
- **Information which will help you continue to implement the updated requirements of OMB Circular A-123**
- **How to continue your risk management efforts**
- **Risk Management - how much is enough?**

Who Should Attend:
This workshop is limited to government employees only to permit candid discussion

- Financial management professionals
- Internal controls program managers and team members
- Program management professionals with internal controls responsibilities

- Program management professionals with risk management responsibilities
- Auditors
- Internal controls steering committee members
- Inspectors General and Staff
- Chief Financial Officers and Staff
- Chief Risk Officers and Staff
- Chief Information Officers and Staff
- Risk Management Staff
- Chief Human Capital Officers, HR Managers and Staff
- Managers, Directors and Senior Officials who have fiduciary or financial responsibilities

Special "Send-A-Team" Registration Fees - 3rd Person at 50%

Register 3 persons from the same government office and the 3rd registers at 50% of the Current Registration Fee to encourage government teams to learn together. (3rd Person Registers for 50%)

Workshop Limited to Government Employees Only
(Federal, State and Local)
Press is NOT Permitted

Registration and Information:

Call: (703) 683-1613
Info@PotomacForum.org

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Potomac Forum, Ltd.

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400 North Washington Street , Alexandria , Virginia, 22314 , USA

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 9/7/2018 9:01:55 PM
To: Repko, Mary Frances (EPW) [mary_frances_repko@epw.senate.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: RE: RE: RE: RE:

Ok - will conf you in when they call me.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

-----Original Message-----
From: Repko, Mary Frances (EPW)
Sent: Friday, September 7, 2018 5:01 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: RE: RE: RE:

Call my cell at Ex. 6 and I'll step out of negotiations.

-----Original Message-----
From: Freedhoff, Michal (EPW)
Sent: Friday, September 7, 2018 3:40 PM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: RE: RE: RE:

Ok. You guys call my desk line and I can conference MF in if she's ready or just crank call her cell every five minutes til she leaves her other call. :-)

Sent from my iPhone

> On Sep 7, 2018, at 3:33 PM, Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov> wrote:
>
> I now have a 4 pm WRDA call. Unclear how far we'll get. I can try to hop off my call, if the three of you want to get on.
>
> -----Original Message-----
> From: Jackson, Ryan <jackson.ryan@epa.gov>
> Sent: Friday, September 7, 2018 3:02 PM
> To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
> Cc: Lyons, Troy <lyons.troy@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
> Subject: Re: RE: RE:
>
> I'd like to try for 5.
>
>
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>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>
>
>> On Sep 7, 2018, at 12:51 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:
>>
>> Ok - let's let MF give us a sense as she figures out today's wrda goings-on, but we can try for 5 if E&C stuff allows.
>>
>> Michal Ilana Freedhoff, Ph.D.
>> Director of Oversight
>> Committee on Environment and Public Works Democratic Staff
>>
>>
>> -----Original Message-----

>> From: Jackson, Ryan <jackson.ryan@epa.gov>
>> Sent: Friday, September 7, 2018 2:47 PM
>> To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
>> Cc: Lyons, Troy <lyons.troy@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
>> Subject: Re: RE:
>>
>> Yes. We'll call you. Any convenient number in particular?
>>
>>
>>
>>
>>
>>
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> 202-564-6999
>>
>>
>>> On Sep 7, 2018, at 12:39 PM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:
>>>
>>> 5 pm eastern an option for you guys?
>>>
>>> Michal Ilana Freedhoff, Ph.D.
>>> Director of Oversight
>>> Committee on Environment and Public Works Democratic Staff
>>>
>>>
>>> -----Original Message-----
>>> From: Jackson, Ryan <jackson.ryan@epa.gov>
>>> Sent: Friday, September 7, 2018 2:26 PM
>>> To: Lyons, Troy <lyons.troy@epa.gov>
>>> Cc: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Repko, Mary Frances (EPW)
<mary_frances_repko@epw.senate.gov>
>>> Subject: Re:
>>>
>>> I'm in Denver Monday.
>>>
>>>
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>>>
>>>
>>> Ryan Jackson
>>> Chief of Staff
>>> U.S. EPA
>>> 202-564-6999
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>>>
>>>> On Sep 7, 2018, at 12:25 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:
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>>>>> Ryan Jackson
>>>>> Chief of Staff
>>>>> U.S. EPA
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>>>>>
>>>>>
>>>>>> On Sep 7, 2018, at 8:58 AM, Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov> wrote:
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>>>>>> Thanks for that!

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>>>>>> Sent from my iPhone
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>>>>>>> On Sep 7, 2018, at 10:51 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
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>>>>>>> Congratulations on Thursday night. I wanted to wait until the smoke cleared but Troy and I wanted to get in the phone with you to talk nominations.
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>>>>>>>
>>>>>>> Ryan Jackson
>>>>>>> Chief of Staff
>>>>>>> U.S. EPA
>>>>>>> 202-564-6999
>>>>>>>

Message

From: Willis, Sharnett [Willis.Sharnett@epa.gov]
Sent: 8/28/2018 6:03:57 PM
To: Brent Fewell [brent.fewell@earthandwatergroup.com]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Coffee

Hello Brent,

Ryan is available at 12:30 for lunch – how about Del Frisco's at 1201 Pennsylvania Ave?

Thanks.

Sharnett Willis
Office of the Administrator
202/564-7866

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Tuesday, August 28, 2018 11:21 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: RE: Coffee

Let me know what works. We can meet on or off campus.

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, August 28, 2018 11:12 AM
To: Brent Fewell <brent.fewell@earthandwatergroup.com>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: RE: Coffee

Yeah, I'll be in town Friday. Should be pretty quiet I hope.

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Tuesday, August 28, 2018 10:05 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Coffee

Got time for coffee or lunch Friday? Have an NPR interview at 11 but should be free by noon.

Brent

Brent Fewell, Esq. | Earth & Water Law Group
1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004
(202) 280-6362 (o) | (202) 664-9297 (c) | www.earthandwatergroup.com

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Message

From: Randy Rodgers [randy@urbanelephantmedia.com]
Sent: 3/21/2019 2:29:49 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Submit your proposal to speak at the Growing Sustainable Communities Conference by March 29

Submit your proposal to speak at the Growing Sustainable Communities Conference by March 29

Growing Sustainable Communities

Submission deadline: March 29

Hi Ryan

I just wanted to remind you that the deadline to submit a proposal to present a workshop at the 12th annual Growing Sustainable Communities Conference in Dubuque, Iowa, is Friday, March 29.

The conference will be held Oct. 24 and 25 at the Grand River Center in the Port of Dubuque. It will feature more than 30 workshop sessions, mobile tours and vendor exhibits. Last year's conference was attended by more than 400 leaders and staff from local governments, educational institutions and businesses. We hope your organization will consider submitting a presentation proposal.

Learn more at:
https://2019-gscc-call-for-presentations.eventbrite.com

Feel free to forward this invitation to anyone who might be interested. Also, if you're certain you can't make it to this year's conference, let me know and I'll remove you from the invitation list for this event.

Best Regards,

Randy Rodgers

Sent on Behalf of the City of Dubuque, Iowa

Please direct any questions about the conference to:

Gina Bell
Sustainable Communities Coordinator
563-690-6038 • gbell@cityofdubuque.org

To stop receiving information about sustainability training opportunities, including free webinars, you may unsubscribe from my list at any time.

Message

From: Green Guy Media [talkwithgreenguy=gmail.com@mail3.atl11.rsgsv.net]
on behalf of Green Guy Media [talkwithgreenguy@gmail.com]
Sent: 8/22/2018 2:03:29 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: ♻ Green Guy Media Newsletter The Ray, Solar Paved Highways and Bioswales

♻ Green Guy Media Newsletter The Ray, Solar Paved Highways and Bioswales

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Volume 83 - August 22,2018

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Talk with Green Guy Show! Sunday, August 26th, 9-10am EST.

The Ray,Executive Director,Allie Kelly and Anna Cullen are on talking about an initiative of the Ray C. Anderson Foundation that is the proving ground for ideas and technologies like solar paved highways and bioswales that will transform transportation infrastructure around the world.

Green Guy broadcasts live every Sunday, **9 -10 am,EST:**

This 18 mile stretch along Georgia's I-85 highway just before the Alabama state line is a corridor that is paving the way for a safer and more sustainable future for us all.

Attention: Green Guy Media has partnered with a nationwide initiative to make healthy snacks & drinks accessible to all Americans. We are giving away FREE healthy vending machines.If you know a school,office,community center or any location that would like healthy choices,send a email to talkwithgreenguy@gmail.com to get all the information and reserve your FREE vending machine.

Coming Events

Green Guy Media EcoEvent of the Week:
August 24th, Truly Living Well
Urban Gardening Intensive
bit.ly/2KVaH2c

August 25th, Georgia WAND Education Fund Justravaganza

WGST AM 640

- iHeartRadio

- Download the Green Guy app free @ Google Play and App Store

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Stay Connected!

bit.ly/2OUFHSx

August 27th, A Community Conversation on Environmental Justice
bit.ly/2MrXG63

September 6th, Lifecycle Building Center 2018 Annual Dinner
bit.ly/2LeATVD

September 8th, Peoples Climate Movement Rise for Climate Jobs and Justice
peoplesclimate.org

Celebrate the life and legacy of Ray C.Anderson @ Serenbe October 14th register here:
raycandersonfoundation.org/rayday

October 14th-19th, Biomimicry Thinking
bit.ly/2LjKXgi

Take the Pledge to save water at home
mydropcounts.org/pledge-to-conserve/take-the-pledge

Take the Pledge to save water at work
mydropcounts.org/pledge-to-conserve/pledge-at-work

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on behalf of ECOS [ecos@ecos.org]
Sent: 9/7/2018 6:29:41 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: ECOSWIRE Special Edition on the Fall Meeting & More

ECOSWIRE Special Edition on the Fall Meeting & More

ECOSWIRE | Vol. 20 No. 35 View this email in your browser

ECOSWIRE

Friday, September 7, 2018

Vol. 20 No. 35

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Fall Meeting Coverage

ECOS Silver Anniversary Fall Meeting Sees Lively Discussion, Informative Polling

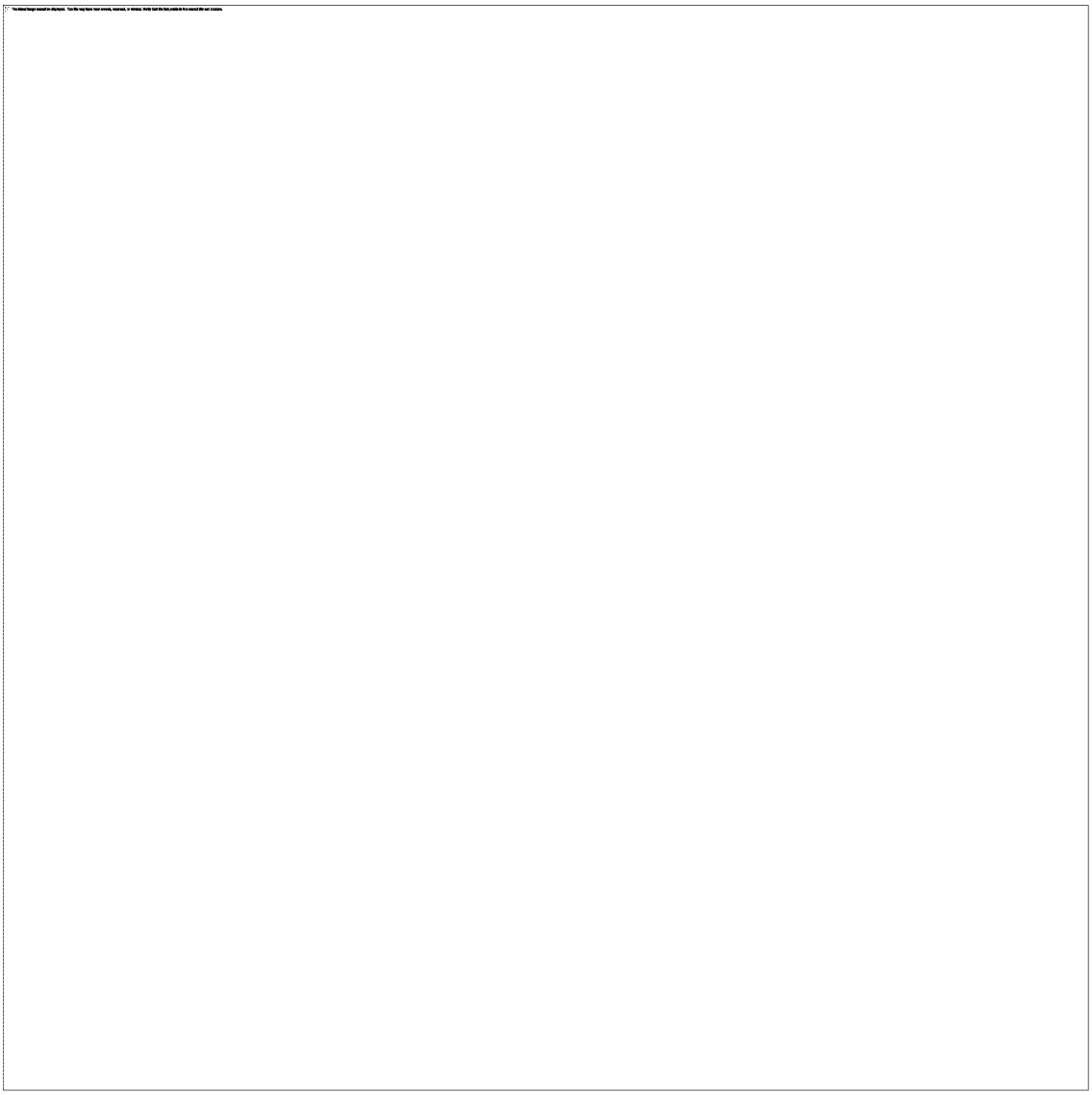
ECOS members, deputies, and Executive Director

Last week's ECOS 25th Anniversary Meeting in Stowe, Vermont generated lively discussion among more than 200 attendees of issues ranging from PFAS to produced water reuse, and state program reviews to science transparency. Live polling and voting via ECOS' new meeting app enhanced the dialogue, as did an interactive crowdsourcing session that yielded proposed solutions to challenges in the areas of stormwater management, exceptional events, and air monitoring.

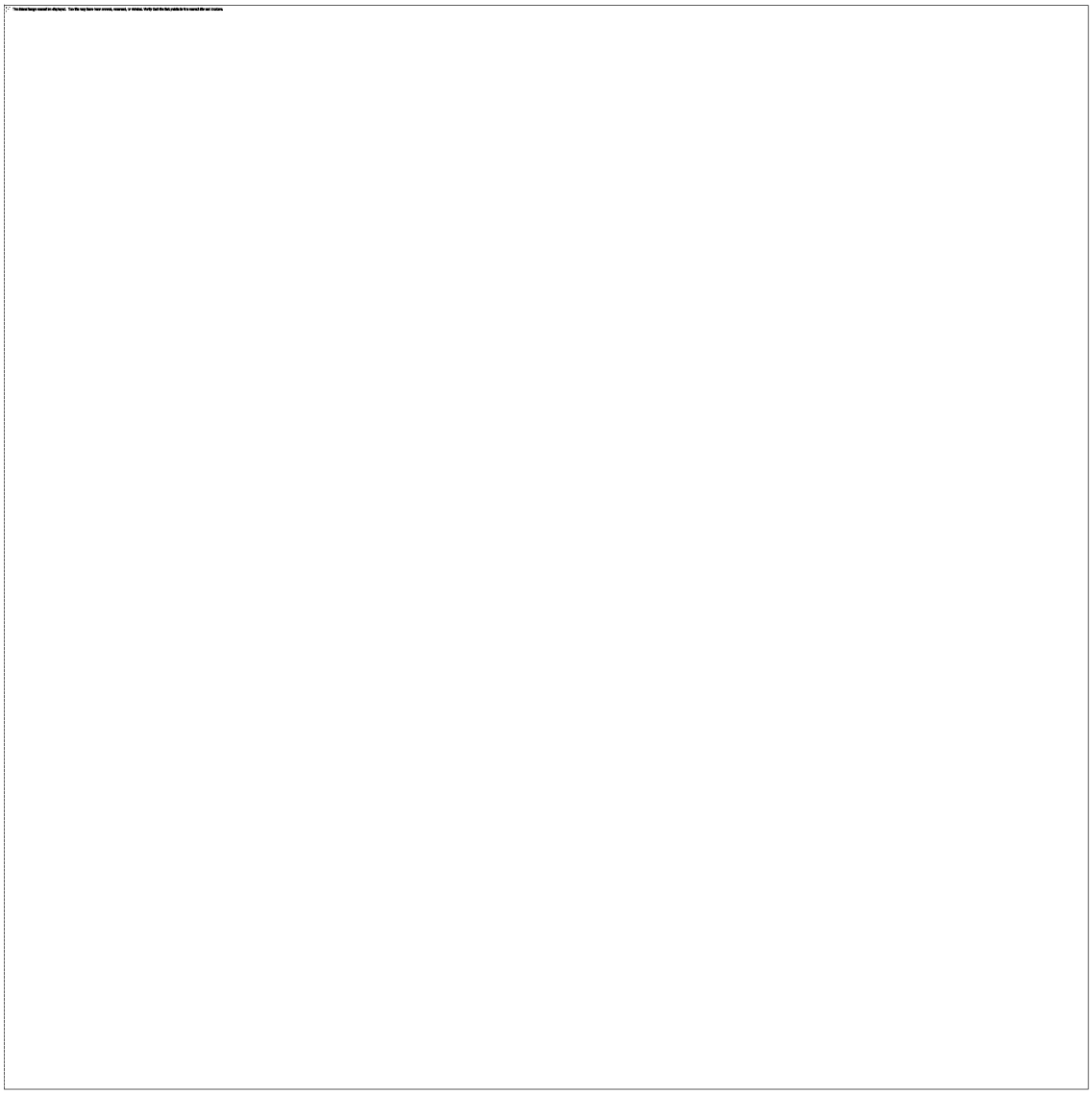
The meeting on *25 Years of Environmental Progress* featured keynote speakers Vermont Governor Phil Scott and Green Mountain Power President & CEO Mary Powell, who spoke of their respective environmental stewardship commitments. Powell also provided a glimpse into her innovative management style, which includes working at a standup desk

alongside utility linemen. In a poignant and humorous "ECOS Then and Now" keynote doubleheader, ECOS Founding Executive Director Robbie Roberts reminisced about the early days of ECOS, and current Executive Director Sam Sankar addressed its evolution and vision for the future.

Also at the meeting, Sankar announced the election of the ECOS officers for 2018-19: Becky Keogh, Director of the Arkansas Department of Environmental Quality, President; Jim Macy, Director of the Nebraska Department of Environmental Quality, Vice President; and Patrick McDonnell, Secretary of the Pennsylvania Department of Environmental Protection, Secretary-Treasurer. Todd Parfitt, Director of the Wyoming Department of Environmental Quality, moves to the role of ECOS Past President, succeeding outgoing Past President John Linc Stine, Commissioner of the Minnesota Pollution Control Agency. See the press release on the new officers here.



Current and outgoing ECOS officers Patrick McDonnell of Pennsylvania, Becky Keogh of Arkansas, Jim Macy of Nebraska, John Linc Stine of Minnesota, and Todd Parfitt of Wyoming (left to right)



Leah Feldon of Oregon, Matt Rodriquez of California, and Maia Bellon of Washington State (left to right)

During an evening anniversary celebration, ECOS honored former Tennessee member Robert Martineau with a Founders award and Wisconsin member Pat Stevens with a President's Award.

ECOS extends its gratitude to Vermont members Julie Moore and Emily Boedecker for their able hosting the meeting. The ECOS members selected Park City, Utah as the venue for the 2020 Fall Meeting.

Links to coverage from *Inside EPA* (reprinted with permission from Inside Washington Publishers) follow:

- States Seek To Preserve Flexibility In EPA's Plan For Program Reviews
- EPA Plans Update To CWA 401 Program But Faces Strong State Pushback
- States Hope Revised Senate Bill Preserves Powers Under CWA Section 401
- EPA Official Raises Concern Over PFAS MCL As States Back Standard
- Wheeler Poised To Soon Issue EPA Policy For Assessing State Programs
- States Highlight Concerns Over Produced Water As EPA Launches Study

The following Environmental Defense Fund blog provides additional commentary on the Shale Gas Caucus session on produced water reuse:

- State Leaders Concerned about Safety of Reusing Oil and Gas Wastewater

ECOS coverage of key topics from the Fall Meeting follows. [Parisien]

Cooperative Federalism

The state and U.S. EPA Cooperative Federalism (CF) Oversight teams held a joint meeting before the official Fall Meeting kicked off. Participants discussed the ECOS Oversight Principles and U.S. EPA efforts to draft its own oversight principles and apply standards of review and escalation procedures in two test programs – National Pollutant Discharge Elimination System (NPDES) individual permit program reviews and Title V permit program retrospective reviews. Three states are working with Regions 4, 5, and 9 on the new NPDES approach. For Title V, EPA published Updated Guidance in March 2018 that addressed a number of areas raised in the ECOS CF 2.0 document. U.S. EPA regions are working with seven states, a tribe, and two local programs to apply the Title V Updated Guidance. Attendees also discussed possible upscaling or full-scaling of test efforts based on state and regional feedback, as well as possible expansion to new areas.

The Oversight meeting discussions were shared in a larger setting in Tuesday's state-U.S. EPA session, along with a report out from the joint ECOS-U.S. EPA Compliance Assurance Workgroup (see next story) and highlights from an ECOS state survey on how has the state- EPA relationship has changed, reflecting on both "roses and thorns." A subsequent session on CF accomplishments allowed Pennsylvania and Utah members to present alongside the Administrators for EPA Region 3 and 8 Regional Administrators.

Across the CF discussions, states generally shared a desire for greater programmatic and less transactional oversight and a desire to institutionalize changes envisioned by CF.

Henry Darwin, U.S. EPA Acting Deputy Administrator, reported that U.S. EPA has begun tracking written state requests to U.S. EPA and timeliness of response. He said the metric demonstrates in part the importance of the relationship with states. ECOS Oversight Team Chair Pat Stevens of Wisconsin noted that states also bear responsibility to engage with their regions to put CF principles and tools in practice on a daily basis.

The meeting app included a link to the revised ECOS CF website. ECOS displayed a poster depicting areas of work under CF. The CF website provides more detailed information on areas of work, progress underway in each area, and specific activities ongoing or anticipated in each work area. [Graves]

Compliance Assurance

The joint ECOS and U.S. EPA Compliance Assurance Workgroup announced its final report describing best practices that can improve federal-state partnerships, compliance, and efficient resource use. As part of the Cooperative Federalism 2.0 initiative, ECOS and U.S. EPA established this workgroup in 2017 to find ways to improve the state-federal relationship in the context of compliance assurance. ECOS Vice President Jim Macy of Nebraska and EPA Office of Enforcement and Compliance Assurance Deputy Assistant Administrator Patrick Traylor co-led this workgroup, which includes senior leaders from EPA and other states.

The report:

- Describes the theory behind cooperative federalism and situations in which it can help deliver better environmental results;
- Recommends changes to EPA's National Enforcement Initiatives;
- Identifies principles and best practices for improving communication, planning, and coordination; and
- Identifies the current measures that states and EPA use and how these measures impact coordinated work on compliance assurance, and makes recommendations for how to better align and improve measures.

ECOS thanks the Co-Chairs and workgroup members for their dedication and commitment to this effort. For more information, contact Sonia Altieri of ECOS. [Altieri]

Air

Shari Meghreblian of Tennessee, Janet Coit of Rhode Island, Clint Woods of the U.S. EPA Office of Air & Radiation (OAR), Craig Butler of Ohio, David Ross of the U.S. EPA Office of Water (OW), and Chuck Carr Brown of Louisiana (left to right) during the Earth, Water, & Sky Roundtable

In an opening roundtable on *Earth, Water & Sky: 25 Years of Progress*, Shari Meghreblian of Tennessee led a broad conversation on progress states and EPA have made over the years and touched on opportunities for improvement. She also noted that the State of Tennessee recently came into compliance with all National Ambient Air Quality Standards. Pointing to Our Nation's Air: Status and Trends Through 2017, EPA OAR Deputy Administrator Clint Woods said the nation has generally seen declining air pollution concentrations. Reflecting on the National Air Toxics Assessment (NATA) data, however, he added that there is still work to be done, particularly in the areas of chloroprene, coke

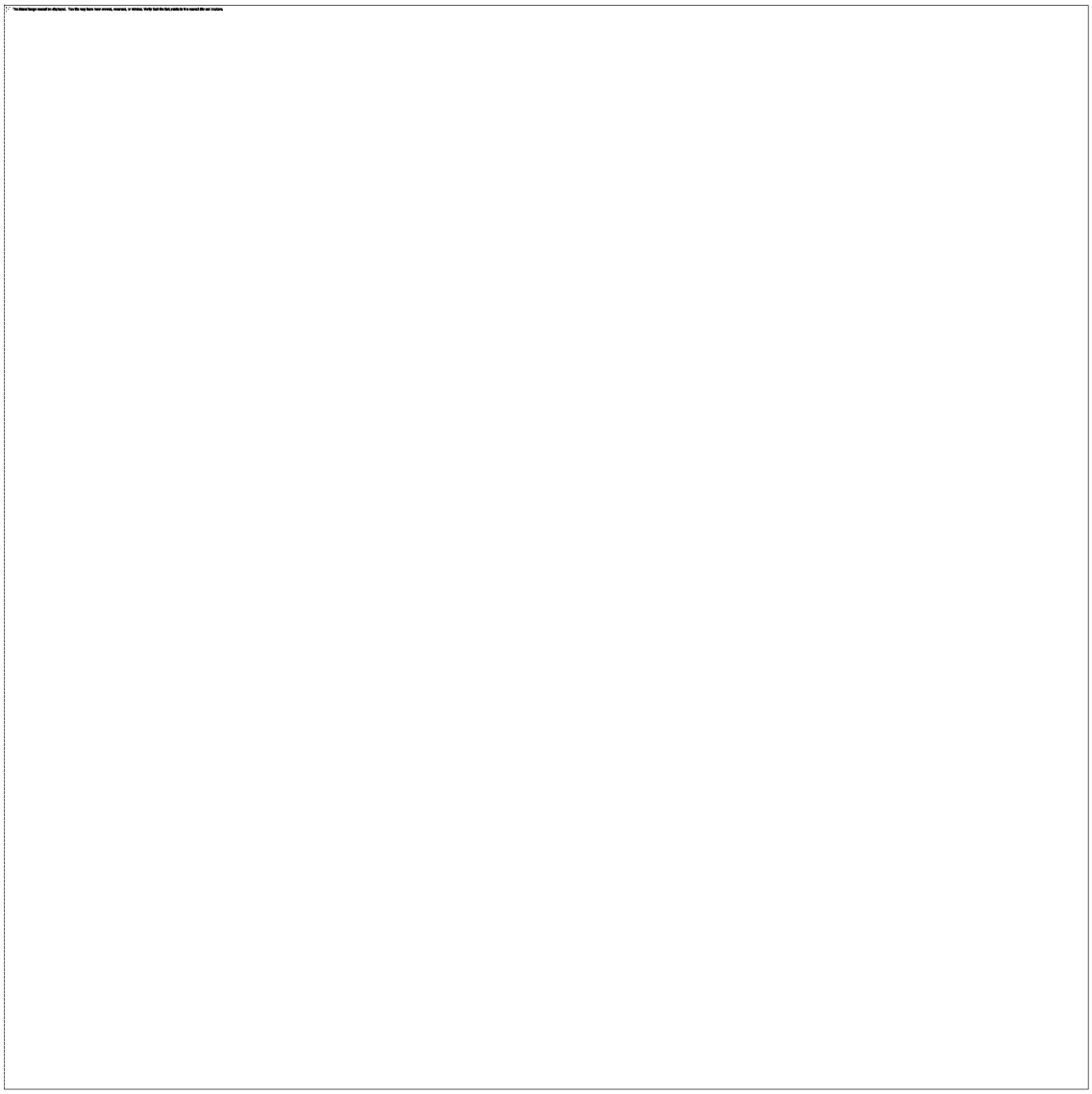
oven emissions, and ethylene oxide.

Challenges in addressing such issues were highlighted during *Point-Counterpoint: State Perspectives on Acceptable Science* as Patrick McDonnell of Pennsylvania led discussion of the potential benefits and drawbacks of EPA's Strengthening Transparency in Regulatory Science Rule, with a particular focus on how the rule would impact the use of health-based data used to set acceptable limits of various pollutants. [Poole]

Water

David Ross, Assistant Administrator for U.S. EPA's Office of Water, highlighted national progress in delivering clean and safe drinking water across the country and noted that one of the core measures tracked by EPA is improving rates of compliance for small drinking water systems. He also addressed the enormous impact of leveraging infrastructure funding. For example, states have leveraged $19 billion from the Drinking Water State Revolving Fund into $35 billion in infrastructure spending. It is estimated that 78 million people have experienced direct benefits from SRF funded infrastructure, including public health impacts. Ross also pinpointed water reuse as an area that didn't have a robust regulatory framework 25 years ago, and has been developing but still has great potential for growth.

Meanwhile, ECOS Water Committee Chair Craig Butler of Ohio touted environmental progress made in the nearly 50 years since the Cuyahoga River fire. He spoke of the value of ECOS Results (see related story) and encouraged his colleagues to use this tool to communicate stories of environmental success.



Todd Parfitt of Wyoming and David Ross and John Goodin of the U.S. EPA Office of Water (left to right)

In a brief session on Clean Water Act Sections 401 and 404, Ross provided an update on EPA activities with respect to state assumption of the Section 404 wetlands permitting program, including the possible modernization of 404 regulations. He also sought feedback from states on potential updates to Section 401, which allows states to review federal agencies' permitting decisions to ensure that permitted activities don't lead to violations of water quality standards. He asked states to comment on any challenges with 401 and requested feedback on how EPA should approach updates to guidance or a potential rulemaking. Several members commented that they haven't experienced challenges with 401 in their states. [Piper]

PFAS

Heidi Grether of Michigan, Maureen Sullivan of the U.S. Department of Defense (U.S. DOD), ECOS Alum Arleen O'Donnell of Eastern Research Group (ERG), and Matt Rodriquez of California (left to right) at the roundtable on Applying Past Lessons to Emerging Challenges

State and federal regulation of per- and polyfluoroalkyl substances (PFAS) was a recurring theme of the meeting.

ECOS members Matt Rodriquez of California and Heidi Grether of Michigan, ECOS alum and ERG Vice President Arleen O'Donnell, and U.S. DOD Assistant Secretary Maureen

Sullivan first explored the progression of emerging contaminant issues, touching on PFAS as the most recent challenge necessitating increased collaboration and legislative support.

Catherine McCabe of New Jersey and U.S. EPA Office of Groundwater & Drinking Water Director Peter Grevatt spoke about ECOS' PFAS Coordinating Committee, a forum for ECOS members and federal partners to explore ongoing efforts to study and regulate PFAS. They noted the ongoing challenges of looking upstream at how PFAS is entering water systems, how to regulate PFAS as a class of chemicals rather than individually, and how to approach risk communication and incorporate the "why" factor into decision-making. ECOS has just released its PFAS workplan, available here.

The discussions culminated in passage of an ECOS resolution supporting work on emerging contaminants (see next story). [Longsworth]

Resolutions

Members passed six resolutions on a variety of issues from training to extended producer responsibility. The most discussed resolution was on emerging contaminants as states exchanged views on challenges in addressing PFAS and noted that PFAS is not the only emerging issue.

The six resolutions adopted or revised at the meeting are:

- 12-5 Principles of Extended Producer Responsibility and the Definition of Product Stewardship
- 15-2 Supporting Work on Emerging Contaminants
- 15-5 On Department of Defense's Environmental Response Program
- 15-6 State and Federal Support of the Interstate Technology and Regulatory Program
- 18-2 Adequately Funded Training Programs for Environmental Success
- 18-3 Addressing Mercury [Hanson]

2018 State Program Innovation Awards

In honor of ECOS' 25th anniversary, the ECOS State Program Innovation Awards took to the big screen at the Fall Meeting. Twenty-two states submitted excellent video nominations showcasing the results of innovative programs and approaches. Videos

appeared in four categories: Water Part 1; Water Part 2; Waste and Emergency Response; and Air, Cross Media, & More. Audience members voted for the best innovation in each category.

Congratulations to the following state winners: South Carolina *One River, Many Partners*, Arizona *Water Watch*, Connecticut *What's In? What's Out? Recycling Campaign*, and Colorado *Innovations Shark Tank*.

See the links below to view all of the state submissions:

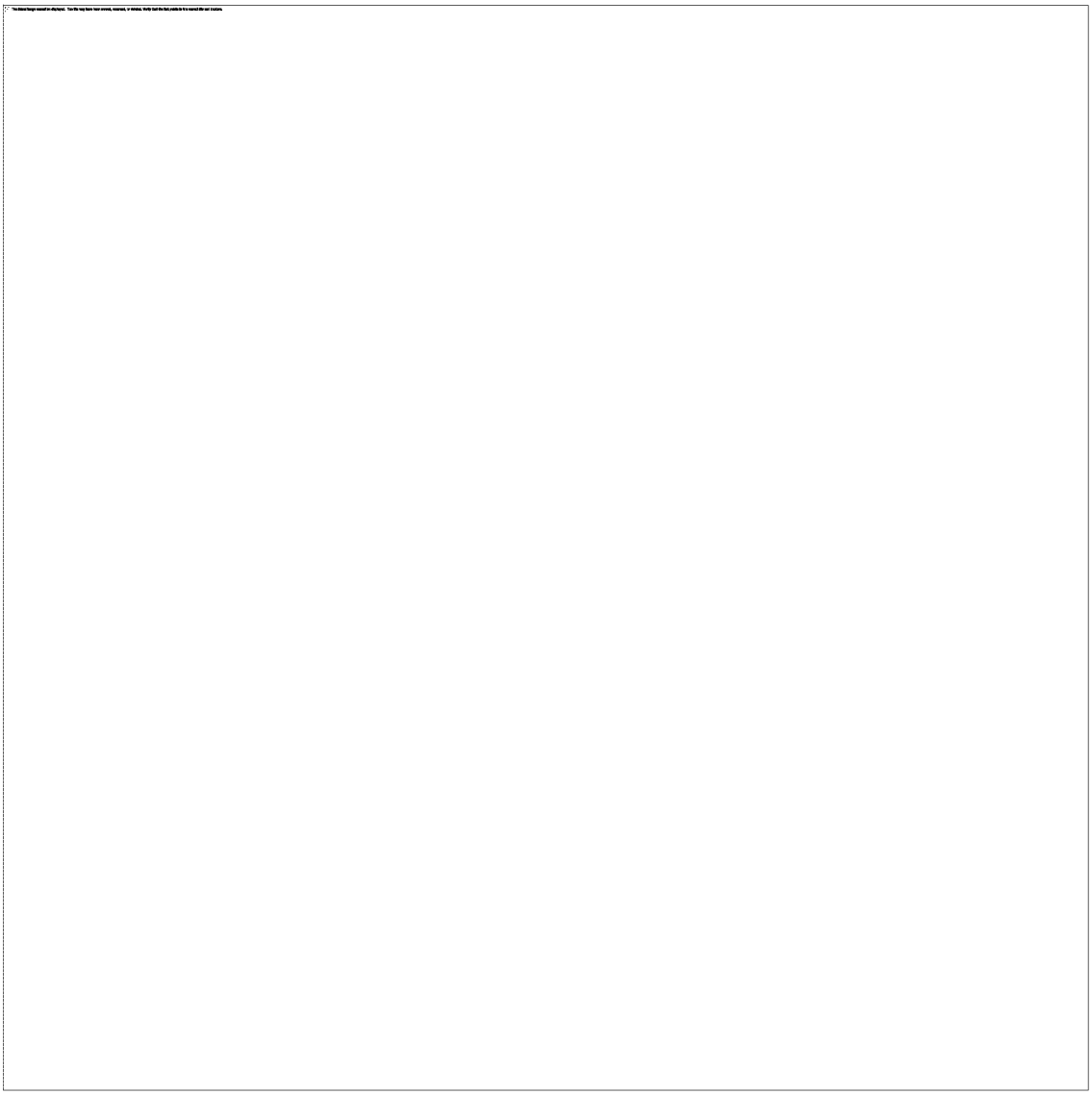
- Water Part 1
- Water Part 2
- Emergency and Response
- Air and Cross-Media [MacCartney]

ECOS Results

The 2018 Fall ECOS meeting spotlighted progress on ECOS Results at a poster session. ECOS Results is an interactive web tool designed to communicate to the public and other audiences state stories of public health and environmental progress.

Forty-four states and D.C. are currently participating in ECOS Results, and we encourage the remaining states to join us in this effort! [Altieri]

Social Media Best Practices



John Linc Stine of Minnesota and Carol Comer of Missouri at the social media workshop

During a side workshop, two social media-savvy ECOS members offered tips and takeaways gained from their respective experiences developing a social media presence. John Linc Stine, Commissioner of the Minnesota Pollution Control Agency (MPCA), and Carol Comer, Director of the Missouri Department of Natural Resources, discussed how to balance individual and agency accounts, handle social media "crises"' and choose platforms.

Comer emphasized the importance of setting clearly defined goals for your social media activity, even as your individual posts appear spontaneous. Stine discussed his agency's use of "brand ambassadors" to educate the public on the MPCA's activities and put a more

human face on the agency. [McAleer]

ECOS-U.S. EPA Science Partnership

The ongoing partnership between ECOS and U.S. EPA's Office of Research and Development (ORD) was reinforced at the Fall Meeting. The partners have forged a close working relationship to advance the commitment to cooperative federalism and ensure that EPA scientific and technical expertise and resources are accessible to the states to help them meet their environmental and public health challenges.

A mini plenary session with ERIS President David Paylor of Virginia, ORD Acting Deputy Assistant Administrator for Management Chris Robbins, and ORD Principal Deputy Assistant Administrator for Science Jennifer Orme-Zavaleta showcased two methods for easily accessing a wealth of ORD research products: 1) the EPA Research Website and 2) the enhanced Science Inventory, which provides a searchable catalogue of all EPA's published research.

The plenary included the "world premier" of a new EPA video highlighting these two resources. ECOS members are encouraged to provide feedback to Lisa Matthews of ORD as the agency works to improve content and accessibility. Also available is an updated edition of EPA ORD and ECOS: Partners for Meeting State Research Needs, a summary of more than a hundred stories of how ORD research and technical assistance support states. [Parisien]

Also in the News

Transitions

Bryan Shaw Retires from Texas CEQ

Bryan Shaw, Chairman of the Texas Commission on Environmental Quality, announced his retirement effective August 31. Shaw had served in a number of leadership positions at ECOS, including Air Committee Chair and Vice Chair, E-Enterprise for the Environment Leadership Council Member, and E-Enterprise Combined Air Emissions Reporting State Co-Chair. He was appointed to the TCEQ in 2007 and rose to the position Chairman in September 2009. His farewell letter to ECOS is here.

On August 31, Governor Greg Abbott designated TCEQ Commissioner Jon Niermann to succeed Shaw as Chairman for a term to expire at the pleasure of the Governor. Niermann has been with the commission since 2015. [Parisien]

Alexandra Dunn Tapped to Serve as U.S. EPA Assistant Administrator for OCSPP

On August 31, President Trump announced his intent to nominate former ECOS Executive Director Alexandra Dunn to serve as Assistant Administrator for U.S EPA's Office of Chemical Safety and Pollution Prevention (OCSPP). Dunn currently serves as Regional Administrator for EPA's Region 1 office in Boston. Before joining ECOS, Dunn was Executive Director and General Counsel for the Association of Clean Water Administrators.

"Dunn has worked closely with states, tribes, and local governments to protect public health and the environment while providing the regulated community the certainty it needs to create jobs and support local economies," said EPA Acting Administrator Andrew Wheeler. "She will use her experience and wealth of knowledge to help EPA faithfully implement the Toxic Substances Control Act and ensure chemicals in the marketplace are safe." [Parisien]

Need-to-Know News in Air

U.S. EPA Requests Comment on Adjacency for NSR & Title V Source Determinations

Area of Focus: *Air*

U.S. EPA is accepting comment on draft guidance through **October 5** on the interpretation of "adjacent" in the context of Clean Air Act permitting. New Source Review (NSR) and title V operating permit programs apply to "stationary sources" where emissions exceed established thresholds.

To determine what comprises a source, three factors must be satisfied: the operations must be under common control; they must be located on contiguous or adjacent properties; and they must fall under the same major standard industrial classification code. In this guidance, for all industries other than oil and natural gas production and processing, EPA provides an interpretation of adjacent that considers only physical proximity. The concept of functional interrelatedness would not be considered when determining whether operations that satisfy the common control and SIC code criteria, and do not lie on contiguous property, are adjacent. [Poole]

E-Enterprise for the Environment

E-Enterprise

ECOS Seeks Expressions of Interest by September 21 for EELC Vacancies

ECOS is seeking expressions of interest from state commissioners or other high-level state officials to serve on the E-Enterprise for the Environment Leadership Council (EELC). With the election of a new slate of ECOS officers, Jim Macy, now ECOS Vice President, becomes the EELC State Co-Chair, leaving a member vacancy. The second vacancy is to fill the seat of Bryan Shaw of Texas, who has retired. States are asked to please express interest to Beth Graves of ECOS by September 21.

The EELC is composed of ten U.S. EPA senior executives, ten state commissioners (or other high-level state officials), and ten tribal representatives. Two in-person EELC meetings are held each year, as well as conference calls held approximately every six weeks. The next meeting is planned for Washington, DC on **September 26-27**. ECOS has funds to support state travel to EELC meetings. [Graves]

Upcoming Events

Webinars

ITRC Training Classes and Webinars

The Interstate Technology and Regulatory Council (ITRC) invites your participation in several upcoming training opportunities:

- Characterization and Remediation of Fractured Rock - **September 11, 1-3:15 p.m. Eastern** Webinar
- Groundwater Statistics for Environmental Project Managers - **September 13, 1-3:15 p.m. Eastern** Webinar
- Geophysical Classification for Munitions Response - **September 18, 1-3:15 p.m. Eastern** Webinar
- Geospatial Analysis for Optimization at Environmental Sites - **September 20, 1-3:15 p.m. Eastern** Webinar
- Petroleum Vapor Intrusion - **October 10-11**, Seattle, Washington
- Managing PFAS Contamination at Your Site - **October 12**, Montclair, New Jersey
- Light Non-Aqueous Phase Liquids (LNAPL) - **October 12**, St. Louis, Missouri

U.S. EPA on SMM

U.S. EPA will hold its monthly Tools and Resources Webinar on **September 19 at 3-4 p.m. Eastern**. The focus will be on sustainable materials management (SMM) and EPA's new SMM Prioritization State Tool, which allows users to screen for potential impacts of goods and services, and distinguish between activities occurring within or outside of any

particular state. To register, see here.

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To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] This Thurs Sept 13th - Records Management in Gov Workshop XVI

Starts This Thursday -
Please Forward to Records Managers and Staff -

NARA Leadership and Agency Records Officers to Speak -

Records Management in Government Training Workshop XVI

Latest Information on Records Management from NARA, Government Records Managers, and Industry Experts

Report from NARA - Results of the New Records Management Annual Report

Lessons Learned and Best Practices

September 13, 2018
Willard InterContinental Hotel
Washington, D.C.

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Keynote Speaker:

Lisa Haralampus
Director, Records Management Policy and Outreach
Office of the Chief Records Officer

National Archives and Records Administration

Government Speakers:

Don Rosen
Director of Records Management Oversight and Reporting
National Archives and Records Administration

Courtney Anderson
Electronic Records Policy Analyst
Office of the Chief Records Officer
National Archives and Records Administration

David D Alspach
Departmental Records Officer
Policy Planning & Management Division
Office of the Chief Information Officer
Department of the Interior

Rachel E. Frier
Records Management Branch Chief
Federal Emergency Management Agency (FEMA)
Department of Homeland Security

Timothy J. Kootz
Departmental Records Officer
Department of State

Patti Stockman
NASA Records and Privacy Act Officer
Office of the Chief Information Officer

Mark Patrick
Chief, Information Management Division
The Joint Staff Secretariat
Department of Defense (DOD)-

Wendy L Couch
Chief Records Officer
Department of Commerce

Steve Poe
Records and Privacy
Government Accountability Office (GAO)

Additional Speakers to be Announced Soon

This workshop will examine the SAO Annual Records Management Report - Lessons Learned from the Report to Improve Records Management at Your Agency

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Government and Industry Partners are Invited to Register

This Potomac Forum Training Workshop will help agencies to comply and meet the NARA and OMB requirements

Overview:

NARA is focusing on Agencies working on the next deadlines for federal government electronics records, email in the cloud, improved methods for contracting for records management services partnering with GSA and other government-wide initiatives. Agencies continue to focus on email retention and management in accordance with regulations and policy and e-discovery. It is important to understand how the NARA/OMB regulations and deadlines will impact your agency.

This one-day Potomac Forum Workshop will focus on the activities mandated by the NARA/OMB Records Management Directive and related management issues and initiatives. Key executives from NARA and

government agencies will discuss the current state of government records management and compliance with policy, regulations and best practices.

Lessons learned from the recent *Federal Agency Records Management Annual Report (Senior Agency Official for Records Management Report Federal Email Management Report and Records Management Self-Assessment)* will be discussed.

The Chief Records Office of the U.S. Government will present the Workshop Keynote and a special follow-on panel with the NARA Executive Leaders will discuss current and proposed government-wide records management initiatives.

What You Will Learn:

- **Lessons learned from the *Federal Agency Records Management Senior Agency Official 2017 Annual Report***
- **What needs to be done to comply with the deadlines imposed by OMB M-12-18**
- **How the role of technology will evolve in the achievement of OMB M-12-18's goals including Cloud Computing**
- **What the components of a sustainable Records Management program will be in this new environment**
- **How the Senior Agency Officials can and are making a difference in improving the management of government records - Lessons Learned from the SAO reporting**
- **NARA Requirements for managing email - lessons learned from IRS news event - Complying with the Law - the Federal Records Act and what it means for email and other records losses**
- **Specific agency actions to be completed in response to the Directive by 2019**
- **and more....**

Why You Should Attend:

- **To gain a clear understanding of OMB M-12-18**
- **Updated information from NARA on training and agency outreach**
- **To assist you in getting the best start on latest thoughts on the implementation of OMB M-12-18**
- **To learn key funding strategies to help your agency implement solutions to meet its objectives**
- **Hear from other government officials about the practical aspects of complying with the Directive**
- **Ensure success of your Records Management Program as you implement the Directive**

- **Lessons Learned since the publication of the Directive**
- **Understand the NARA requirements for email management - avoiding embarrassing non-conformance**
- **Understand email retention regulation, policy, and legislation.**

Who Should Attend:

- **Records Managers and staff.**
- **CIOs and the Staff including technical staff involved with Records Management**
- **Senior Agency Officials (SAOs) for Records Management and those who report to or support the SRO**
- **IGs and Staff**
- **All those with responsibility for initiating and carrying out the reforms mentioned in the President's Records Management Directive**
- **Professionals responsible for managing information resources on an enterprise-wide basis**
- **Those needing to understand latest NARA policy and guidance**
- **Contracting, Procurement and Acquisition Management Professionals**
- **Program Managers Who Must Understand Records Management in Government**
- **Government executives who want to understand email retention and records management regulation, policy, and legislation.**
- **Industry Partners**

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Format:

This workshop will combine keynote presentations by NARA, lectures on implementing the Directive, real world examples and discussions to provide a thorough, enjoyable day of learning.

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Message

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Sent: 8/22/2018 3:15:27 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: You own the Code! 1,400 engineers = no code or technology limitations

Hi Ryan,

We have met and talked about software development needs before. Could we circle back to our original conversation on a quick call?

As a reminder, we provide developer solutions for a wide range of clients in all Energy as well as Oil & Gas markets. With over 1,400 developers on our payroll, we can literally take you from concept to code.

Our partners are SAP, Oracle, IBM, AWS, Google, Microsoft, ESRI, Salesforce as well as many others. Over 3,500 happy clients and over 16,000 apps built we want to provide solutions to the challenges in your technology roadmap!

Let me know what day works best for a short meeting so I can send an invite.

Article link to IIoT in Energy:
https://www.chetu.com/blogs/oil-gas/industrial-internet-of-things.php

LinkedIn profile:
https://www.linkedin.com/in/tom-gorman-053b9767/

Tom Gorman

Chetu, Inc. est. 2000

Cell: 954.881.3702 l Email: tomg@chetu.com
LinkedIn: https://www.linkedin.com/in/tom-gorman-053b9767

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Chetu, Inc. (ASSAE-16 SOC 2 Certified Company)

Message

From: Rob Hobart [rhobart@hhqventures.com]
Sent: 9/5/2018 7:17:03 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Call
Attachments: ATT00001.txt

Ryan: you have time for a quick call?

Thanks
Rob

Message

From: Williams, Brendan [Brendan.Williams@pbfenergy.com]
Sent: 9/6/2018 7:59:55 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Around to catch up?

Hearing a bunch of chatter and just wanted to touch base. Please let me know if there is a good time to call.

Thanks!

Brendan Williams
Government Relations
PBF Energy
601 Pennsylvania Avenue, NW
Suite 900 South
Washington, DC 20004
O: (202) 434-8254
M: (703) 863-6825
brendan.williams@pbfenergy.com
www.pbfenergy.com

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Message

From: Deborah Hohlt, Office of Governor Eric J. Holcomb [Debbie=indianagr.com@mail123.suw111.mcdlv.net]
on behalf of Deborah Hohlt, Office of Governor Eric J. Holcomb [Debbie@indianagr.com]
Sent: 9/7/2018 3:24:18 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Holcomb Unveils $1B 'Next Level Connections' Program

Holcomb Unveils $1B 'Next Level Connections' Program

View this email in your browser

Hoosiers and friends of Indiana,

This week, Indiana Governor Eric Holcomb announced the next phase of his "Next Level" agenda--'Next Level Connections'--a comprehensive infrastructure plan to improve transit and communication across the state. The plan will improve service and capacities on some of the Indiana's heaviest used roads, highways, rails, and trails while investing in expanding broadband to its rural communities. While the connections in state improve and grow, please utilize the Federal Relations office as your D.C.-based connection to Governor Holcomb's office.

Happy Friday,
Debbie

--
Deborah Hohlt

Federal Relations Consultant
State of Indiana
Office of Governor Eric J. Holcomb

Published Sept. 4, 2018 in the Indiana Business Journal

Holcomb Unveils $1B 'Next Level Connections' Program

http://www.insideindianabusiness.com/story/39021868/holcomb-unveils-1b-next-level-connections-program

By Andy Ober, Assistant Managing Editor

MARTINSVILLE - Governor Eric Holcomb has unveiled plans for the state to spend $1 billion in infrastructure projects that he says will improve quality of life throughout the state. Holcomb's "Next Level Connections" program focuses on speeding up major road projects, increasing broadband access, improving the state's trail system, attracting more international flights, continuing work on a potential fourth port and pushing West Lake rail service and South Shore double-tracking projects. He says it will be funded through a one-time toll increase on heavy vehicles.

The road project element includes investing $600 million to finish the I-69 expansion project three years earlier, moving the completion date from 2027 to 2024. It also involves nearly $200 million to make improvements to US 20, US 30 and US 31, including resurfacing, bridge improvements and new interchanges.

Holcomb is also planning an investment of about $100 million to bring affordable high-speed, fiber optic broadband access to underserved communities in the state. The effort will include matching grant opportunities for providers to bring service to those areas.

The $90 million trail effort focuses on walking and biking paths throughout the state. The Department of Natural Resources says it wants a trail within five

miles of every Hoosier by 2020.

The plan also calls on the state to invest about $20 million to work to establish additional international nonstop flights to and from Indianapolis, with specific targets in the Mexico City and Asia Pacific markets. Holcomb says he wants to make Indianapolis International Airport the “preferred airport” of the Midwest.

Holcomb’s plan also involves continuing work on a potential fourth port. The state previously entered into an $8 million land purchase option agreement for a site in Lawrenceburg. The governor says a fourth port would connect southeast Indiana to more development opportunities and strengthen the position of the Ports of Indiana.

Finally, the plan involves the Northern Indiana Commuter Transportation District, Northwest Indiana Regional Development Authority and the Indiana Finance Authority partnering to pursue West Lake rail service and the South Shore double-tracking projects. The West Lake effort would create commuter South Shore rail service from Hammond to Dyer. The second project involves double-track express service from Hammond to Michigan City.

Next Level Connections Press Release

Next Level Connections Fact Sheet

Learn more about Gov. Holcomb’s 'Next Level Agenda' at https://www.in.gov/gov/nextlevelconnections.htm

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Message

From: Charles Brittingham [cbrittingham@cassidy.com]
Sent: 9/5/2018 7:05:37 PM
To: Dickerson, Aaron [dickerson.aaron@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: FW: mtg request

Importance: High

Hey Aaron –

Has there been any movement or decision on the below meeting request?

Thank you,

Charles

Charles Brittingham, II
SVP, Cassidy & Associates
202-412-3106 (cell)

From: Brooke Coleman
Sent: Tuesday, August 28, 2018 2:45 PM
To: 'Dickerson.aaron@epa.gov' <Dickerson.aaron@epa.gov>
Subject: mtg request

Hi Aaron,

Good afternoon. I am writing to request a meeting with Acting Administrator Wheeler; preferably for September 27th (anytime).

The purpose of the meeting is to discuss technological readiness among leading cellulosic biofuel executives (flying in for the meeting). The timing is important, as the RFS required volume obligations come out later in the fall. I will have 4-8 top-level executives (many CEOs) from the leading companies in the sector (Novozymes, Enerkem, Aemetis, Edeniq, Quad County/Cellerate, POET, Pacific Ethanol, Clariant, etc.).

These executives have never met with Mr. Wheeler.

I can be reached at the coordinates below. Many thanks in advance. -Brooke

R. Brooke Coleman
Executive Director
Advanced Biofuels Business Council
www.advancedbiofuels.org
857.719.9766

Message

From: Emmanuel Zibakalam [emmanuel@bettercropshawaii.com]
Sent: 8/21/2018 9:38:13 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Bennette Misalucha [bennette@bettercropshawaii.com]
Subject: HCIA Letter - Ninth Circuit Court's Decision Regarding Chlorpyrifos
Attachments: HCIA Letter Regarding the Ninth Circuit Decision on Chlorpyrifos - Ryan Jackson.pdf

Aloha Mr. Jackson,

Please find attached a letter from the Hawaii Crop Improvement Association (HCIA) regarding the U.S. Court of Appeals for the Ninth Circuit's recent decision ordering the EPA to revoke all tolerances and cancel all registrations for Chlorpyrifos.

HCIA is a Hawaii-based non-profit organization that promotes modern agriculture to help farms and communities succeed. Through education, collaboration and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.

If you have any questions, please contact me at your convenience.

Sincerely,

Emmanuel Zibakalam
Program Director
Hawaii Crop Improvement Association
(808) 741-8390
www.bettercropshawaii.com

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Alan Takemoto

Executive Director
Bennette Misalucha

August 21, 2018

TO: Ryan Jackson, Chief of Staff, U.S. Environmental Protection Agency
FR: Bennette Misalucha, Executive Director, HCIA
RE: Ninth Circuit Court's Decision to Cancel All Registrations for Chlorpyrifos

We are disappointed by the U.S. Court of Appeals for the Ninth Circuit's recent decision ordering the EPA to revoke all tolerances and cancel all registrations for Chlorpyrifos. Our organization, the Hawaii Crop Improvement Association (HCIA), represents Hawaii's seed industry and is dedicated to helping farmers and communities succeed through education, collaboration, and advocacy.

While Hawaii's unique tropical climate is ideal for growing crops year-round, it is also home to many pests, diseases, and invasive species. Pesticides, such as Chlorpyrifos, play an important role in helping to control these invasive species that could otherwise threaten our homes, our health, the environment, and food supply.

Chlorpyrifos acts through the inhibition of acetylcholinesterase (AChE), which is an enzyme found throughout the body. Humans have multiple layers of protection and each layer must be "exhausted" before the next layer is engaged. These protective layers include plasma, red blood cell (RBC), and brain cholinesterase. RBC inhibition, used by global authorities on which to base permissible exposure levels in humans, is a conservative endpoint upon which to assess human exposure and safety. The Ninth Circuit's decision invalidates regulatory standards by disregarding these studies.

The primary debate regarding the safety of Chlorpyrifos stands at the intersection of reliable and quantifiable laboratory studies, of which, cholinesterase inhibition remains the global gold standard as the biologically relevant point of departure used for risk assessment, including neurodevelopmental outcomes. To apply a separate scientific standard to a singular chemistry calls into question the structure of our regulatory system and should be decided upon by those trained and appointed to do so.

Additionally, the Ninth Circuit's decision will make it difficult for commercial agricultural production to remain viable and sustainable in the State of Hawaii. One of the state's goals is to "eliminate hunger by doubling food production, increasing food security, ensuring sustainable food production systems and implementing resilient agricultural practices." Farmers need tools to protect their crops from troublesome pests that can ruin harvests, and Chlorpyrifos is among the most versatile and proven crop protection tools on the market.

Finally, HCIA stands by the notion that consideration of what is appropriate and safe, relative to the use of chemistries, should be based on credible science and peer reviewed data that is enforced by the appropriate regulatory agencies. It is our hope that the parties involved will consider all of their options and challenge this recent decision.

Thank you for your consideration of our comments.

P.O. Box 126 Aiea, HI 9670 – www.bettercropshawaii.com

Message

From: IEDC [iedcnews@iedconline.org]
Sent: 8/30/2018 2:03:07 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Annual Conference Spotlight: Minority-Owned Businesses

SHARE THE ANNUAL CONFERENCE:

Session Spotlight

Catalyzing Minority-Owned Businesses for Local Economic Vitality

Tuesday, October 2
4:00 p.m. - 5:30 p.m.

New and growing businesses are important sources of job creation, exports, and amenities for communities and critical to a vibrant local economy. Over the past two decades, increases in the number of minority-owned businesses outpaced that of white-owned businesses. This change is fueled by increasing diversity across the country, and economic developers at the municipal, county, and state levels have an opportunity to leverage demographic changes to create policies and programs to support minority-owned businesses. This panel features experts who have effectively served minority-owned business by providing technical assistance and network

development, conducive policy environments, and appropriate capital access strategies that help entrepreneurs get started on the right foot and grow.

What you will learn:

- Policy actions (public and private) that support the growth of minority-owned businesses
- Programs to address common challenges and gaps faced by minority-owned businesses
- Credit and equity approaches to access capital

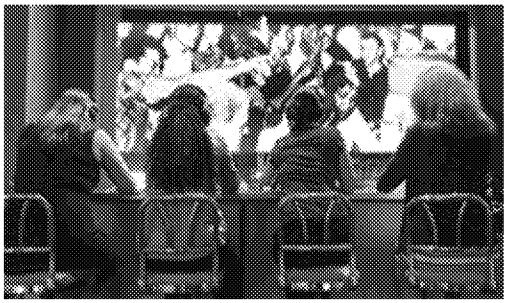
Speakers

- Shannon James, Chairman, Aerotropolis Atlanta Alliance, Atlanta, GA (moderator)
- Nick Masino, Chief Economic Development Officer, Gwinnett Chamber Economic Development, Duluth, GA
- Kathleen O'Shea, Senior Research Analyst, Initiative for a Competitive Inner City (ICIC), Boston, MA

REGISTER

Educational Tours

Don't miss these educational tours that highlight the importance of diversity and equity for communities and economic development.



Center for Civil and Human Rights
Monday, October 1
8:30 a.m. - 12:00 p.m.
Hosted by the Center for Civil and Human Rights

Join the education team at the Center for Civil and Human Rights for a tour and discussion about equity and bridging the gap between diverse communities. Learn through the Center's exhibitions about the various ways equity has been addressed and what challenges we still have to overcome. Following the tour, participate in a conversation on how the Center upholds its mission and reflect on the work that has been done

and continues today to bridge the gaps in equity.

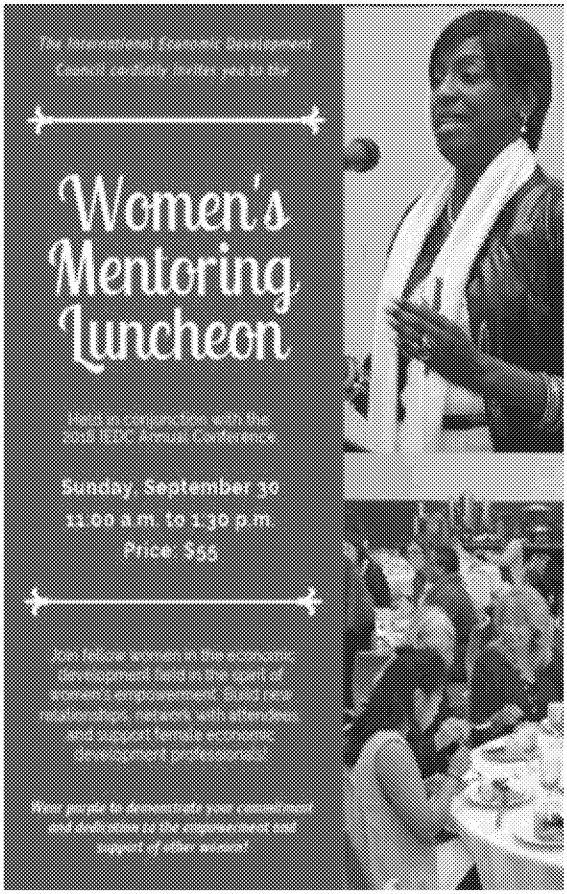
Atlanta University Center
Tuesday, October 2
1:45 p.m. - 5:00 p.m.
Hosted by Atlanta University Center

Journey through the corridors of history to where civil rights leaders and other prominent African Americans walked. The Atlanta University Center (AUC) is America's oldest consortium of African American private institutions of higher education, including some dating back to the American Reconstruction Era. Explore where Dr. Martin Luther King, Jr., Spike Lee, Alice Walker, and Pearl Cleage studied, honed their crafts, earned their degrees, and later changed the world. The Consortium supports numerous programs and partnerships such as West End Community Improvement District, University Community Development Corporation, and Atlanta Promise Neighborhood. Members of the Consortium play a significant role in supporting development in West Atlanta through capacity building and resource development, housing and economic development, environmental sustainability, service learning, and volunteerism.

REGISTER

Networking Event

Women's Mentoring Luncheon
Sunday, September 30
11:00 a.m. - 1:30 p.m.



In the spirit of women's empowerment, this luncheon is designed to help women receive support for their professional development. The luncheon will foster mentoring relationships between attendees, and participants will hear insightful stories from trailblazing female leaders across the country. Speakers will address inclusiveness, fostering innovation, and creating change in our communities. Attend this luncheon to network, build relationships, and support female economic development professionals. Wear purple to demonstrate your commitment and dedication to the empowerment and support of others. The future is female!

Speakers

- Rosarita Burden, Executive Director, Ernst & Young, LLP, Atlanta, GA
- Tedra Cheatham, CEcD, Director of Business Partnership Development, Georgia State University, J. Mack Robinson College of Business, Atlanta, GA
- Crystal Morphis, CEcD, LEED Green Associate, Founder & CEO, Creative Economic Development Consulting, Elkin, NC
- Mim Senft, CEO, Motivity Partnerships, Inc., Blooming Grove, NY

REGISTER

IEDC is a non-profit, non-partisan membership organization serving economic developers. With more than 5,000 members, IEDC is the largest organization of its kind. Economic developers promote economic well-being and quality of life for their communities by creating, retaining and expanding jobs that facilitate growth, enhance wealth and provide a stable tax base. From public to private, rural to urban and local to international, IEDC's members are engaged in the full range of economic development experience. Given the breadth of economic development work, our members are employed in a wide variety of settings including

local, state, provincial and federal governments, public-private partnerships, chambers of commerce, universities and a variety of other institutions. When we succeed, our members create high-quality jobs, develop vibrant communities, and improve the quality of life in their regions.

734 15th Street NW, Suite 900
Washington DC, 20005
Phone: 202.223.7800

Official Hashtags: #IEDC #EconDev

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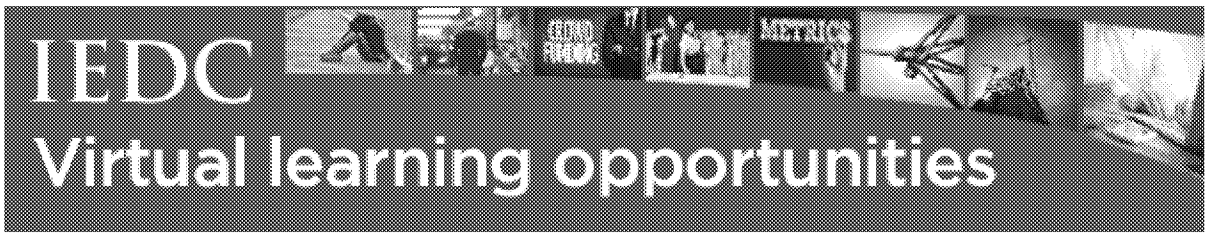
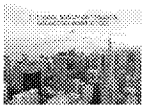
Message

From: IEDC [iedcnews@iedconline.org]
Sent: 9/7/2018 2:02:27 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Upcoming webinar: The Inside Scoop on the Data Businesses Want to See



www.iedconline.org/virtual SHARE IT:

The Inside Scoop on the Data Businesses Want to See



Thursday, September 20
2:30 p.m. - 4:00 p.m. ET
Free

As one of the largest independent site selection firms in the country, Site Selection Group knows what it takes for communities to catch the eye of businesses. In this webinar, analytics experts from Site Selection Group and Emsi will share the types of data and specific metrics site selection consultants and businesses care most about. They'll also uncover the labor and community data that are most difficult to find on your city or town.

Key takeaways:

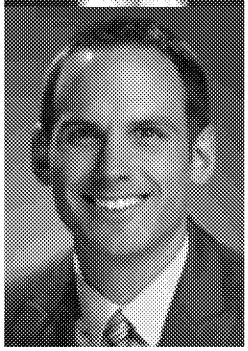
- Come away with specific recommendations on evaluating and communicating your labor market.
- Understand the metrics on your workforce that you should focus on with site selection consultants and businesses.
- Learn how best to share data with site selectors and businesses at different stages of a business attraction project

REGISTER 2018 SERIES

Speakers:

Josh Bays
Partner
Site Selection Group
Dallas, TX

Chris Schwinden
Vice President
Site Selection Group
Dallas, TX



Joshua Wright
Vice President of Economic and Workforce Development
Emsi
Moscow, ID

International Economic Development Council

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734 15th Street NW, Suite 900
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Phone: 202.223.7800

Official Hashtags: #IEDC #EconDev

INTERNATIONAL ECONOMIC DEVELOPMENT COUNCIL

The Power of Knowledge and Leadership

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Message

From: Mandy Gunasekara Ex. 6
Sent: 8/28/2018 9:18:19 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Resume Ex. 6
Attachments: Resume

Sent from my iPhone

Ex. 6

Message

From: Segal, Scott [scott.segal@bracewell.com]
Sent: 7/31/2018 6:12:18 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Section 401

Andy - When we met last month, I mentioned the topic of Clean Water Act Section 401 and how EPA can play a constructive role in improving the 401 process.

As follow up, I wanted to let you know that we had a very productive meeting with Dave Ross on this topic. Dave recognized the challenges with the 401 process and EPA's role in providing clarity and predictability. We discussed how EPA activity reinforcing the statutory text of Section 401, as confirmed by recent court decisions, would be particularly timely. Seems as though EPA is really focusing attention on Section 401 - hopefully to correct some of the misstatements of law found in EPA's interim handbook on the subject. It was a great meeting and we're looking forward to working with OW on this topic.

As you're likely aware, the Section 401 issue has gotten greater attention, even on the Hill. Chairman Shuster has included Section 401 reform in his infrastructure discussion draft and we understand that Chairman Barrasso will be introducing legislation, too. Wouldn't be surprised if it came up tomorrow.

Thanks so much for all the great work at EPA! Cheers, ss/

SCOTT SEGAL
Partner
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T: +1.202.828.5845 | F: +1.800.404.3970

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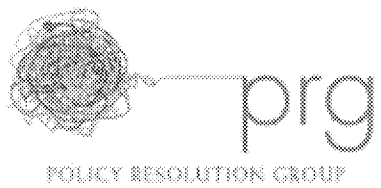

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Message

From: Chase Hutto [chase@CVEnergy.com]
Sent: 7/31/2018 8:31:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Good seeing you at Fancy's elevation

Hope all is well, and that you'll be getting some time off soon—August is almost here, right?

Chase

F. Chase Hutto III
Managing Director

ClearView Energy Partners, LLC
209 Constitution Avenue, NE
Washington, DC 20002

(202) 506-5744 (office)
(202) 486-5570 (mobile)
(202) 747-1967 (fax)

Message

From: John C. Cruden [JCruden@bdlaw.com]
Sent: 8/12/2018 11:10:44 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Automatic reply: RE: Re:

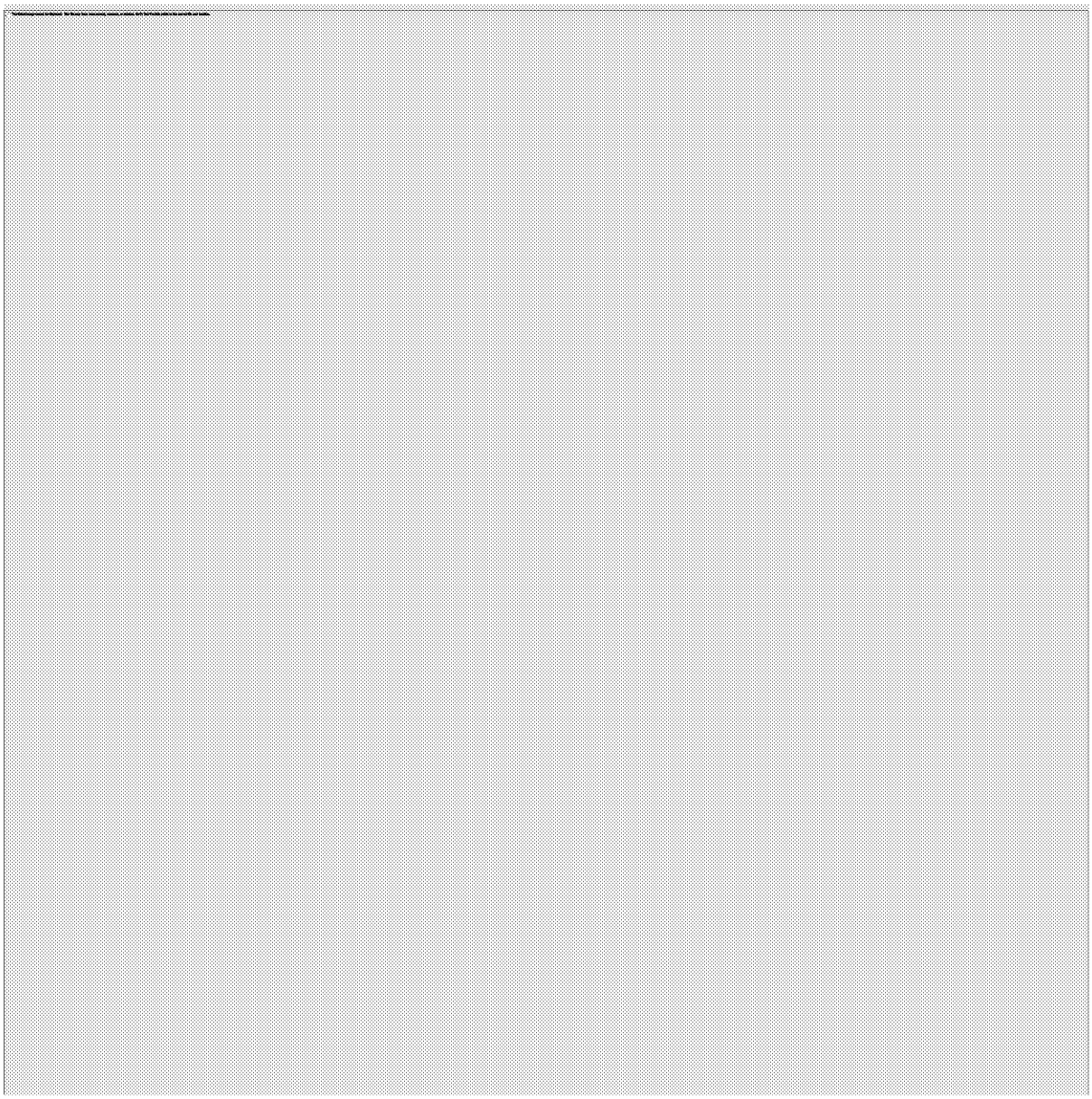
I am out of the office today on business travel until late Sunday eveining.

Please contact Sheron Fletcher at 202 789 6174 if you need assistance.

John

Message

From: Blue Prism [contact@blueprism.email]
Sent: 8/13/2018 1:51:52 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Blue Prism Café with Postbank - sign-up to receive the follow-up



Sign-up to receive the content from:

Blue Prism and Postbank: Deploying a successful Digital Workforce to improve Client Experience

Live webinar: Tomorrow, August 14, 2018
Time: 8am PT / 11am ET / 4pm UK

SIGN-UP NOW

Hi Ryan,

Tomorrow we are taking our Blue Prism Café to new levels and hosting our 1st webinar, entirely in German. As we know that our community and audience always find great value from these Cafés, we want to make sure that you get access to the content and learn from the world's leaders in RPA.

Sign-up today to receive a dedicated follow-up email in English that will include:

- The blog summary of the Café in English
- A recording of the Café that will have been fully subtitled in English

What will this webinar talk about?

Cognitive Automation is seen by Postbank as one important lever to make banking operations more efficient, faster and scalable. Discover Postbank's RPA journey that started early 2016 to now having 50 processes automated by leveraging 40 Blue Prism Digital Workers.

Serkan Saracuz, Head of Organization & Processes will be sharing the Postbank's successful implementation process, lessons learned as well as examples and successes.

I hope you will agree with me that this is content that is not to be missed, so make sure you've **signed up** to receive the content directly in your inbox.

Kind regards,

Shail Khiyara

Chief Marketing & Experience Officer, Blue Prism

Blue Prism: United States: 9600 Great Hills Trail, Suite 150W, Room 171, Austin, TX 78759 USA

Australia: Level 20, Tower 2 Darling Park, 201 Sussex Street, Sydney, New South Wales, NSW 2000

France: 40 rue du Colisée, Paris 75008

Germany: Theatinerstrasse 11, 80333 München

India: #1425 Level 14, Concorde Tower, UB City, 1 Vittal Mallya Road, Bangalore 560001

Japan: 14F Kamiyacho MT Building, 4-5-20, Toranomon, Minato-ku, Tokyo 105-0001

United Kingdom: Centrix House, Crow Lane East, Newton-le-Willows WA12 9UY

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Message

From: Bloomberg Government [bbg_gov@info.bgov.com]
Sent: 8/6/2018 11:01:23 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Welcome to the Technocrat

Bloomberg Government Technocrat

August 6, 2018

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What's New This Week:

NDAA Implications and a Tech Wish List

Editor's Note: *Welcome to Technocrat, Bloomberg Government's weekly newsletter for federal technology leaders! Here's what makes Technocrat different. If you're a federal technology leader, or work with them, Technocrat is your resource for leading right now. Technocrat doesn't dwell on the uncertainty of the political circus, but we do*

acknowledge it—and give you the resources to meet your mission in spite of it. We help you drive modernization, enable better service delivery through technology and always—always—remember the human element powering technology (and the subtle art of getting things done). We hope you'll enjoy and share with your colleagues.

—Kevin Brancato, Managing Editor

What's new this week that affects you? While Washington politicos have their eye on on the Mueller investigation and the president's Supreme Court nomination, federal technology leaders should turn their attention to some important spending developments. Here's what you should know as you get ready for the week ahead.

Last week, for the 58th year in a row, Congress passed the National Defense Authorization Act. Who says Congress can't get anything done? Here's what's in the $717 billion NDAA that affects you:

A government ban on federal purchasing of Chinese telecommunications equipment made by ZTE Corp. and Huawei continues, F-35s for Turkey are on hold, and a "Cyberspace Solarium Commission" has been established to reevaluate U.S. cyber doctrine. And Amazon Web Services is likely rejoicing as the Pentagon reaffirms its commitment to a $10 billion single award for the Pentagon's expansive cloud system known as the Joint Enterprise Defense Infrastructure, or JEDI.

Speaking of the force, as you start thinking about your 2020 budget, check out this memo issued by the Office of Science and Technology Policy (P.S., they recently got a new leader). OSTP highlighted the Trump administration's top priorities for the technologies you should be spending your hard-earned budget dollars on. The wish list of goodies/buzzwords includes AI, 5G, quantum computing, advanced manufacturing, and clean energy investments.

Are you sad blockchain didn't make the list of buzzy tech trends? Don't worry, BGOV's Chris Cornillie has a full rundown of public-sector use cases for blockchain that every cyberpunk / GS-15 should read.

SPONSORED CONTENT

Did you miss last week's "Automating the Federal Future" webcast?

Click here to watch the webcast replay today! See what FEMA's Chief Technology Officer, Ted Okada, and U.S. Digital Service Expert, Clare Martorana, had to say about the impact of automation on the delivery of government services:

- The areas where automation can deliver the greatest return on investment
- How to make a business case for modernization
- The skills and tools needed to position your teams for success
- How to measure success and communicate that to stakeholders

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Next Tech: Off the Chain

"Blockchain technology has the potential to secure and protect the critical data we entrust to the government."

—Kevin Brancato, Bloomberg Government

Read more in this week's Bloomberg Government exclusive.

Strategy & Leadership

Hey, You Might Be Getting a Pay Raise!
Emphasis on "might." According to GovExec, the Senate approved a $154 billion spending bill that would give feds a 2019 pay bump of 1.9 percent. But the House and White House probably aren't having it. Read more.

Veterans Affairs Officially Gets a New Leader After Shuffle at Top
Robert Wilkie was sworn in as secretary of Veterans Affairs at the White House last week. Said President Trump: "It's a

tough job but it's a beautiful job." Read more.

Cyber (In)security

Pentagon Releases 'Do Not Buy' List Targeted at Russia, China

DoD's head of acquisition is working to educate the military about technology vendors with foreign connections they view as high-risk, reports Defense One. Check the "made by" before you buy. Read more.

Hacking California's Election System Would Be Difficult—But Doable

The Russian hacking threat remains real. California recently got an "all clear" from the government, but, according to Government Technology, a UC Davis computer science professor says the government should still be nervous. Read more.

Cloud Computing

FedRAMP Still Evolving Under New Authorizations

Eight years after the creation of the Federal Risk and Authorization Management Program, the program is still evolving and one lawmaker wants to push that along, says NextGov. Read more.

NIH Forges Cloud Partnership With Google

Biomedical innovation is getting a tech-powered jumpstart, thanks to a new partnership between the National Institutes of Health and Google. Read more.

Beyond Legacy

VA.gov Prepares for Major Modernization Overhaul

According to FedScoop, Veteran Affairs is working to become "the first federal agency to deliver a digital experience on par with the private sector" as part of its VA Digital Modernization effort. Read more.

Trump's Modernization Plan Takes Shape

The Trump administration has issued its vision for the future of a digital, modern government. It's part of a wide-reaching plan to reorganize the federal agencies. Read more.

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Message

From: Pfrang, Steve [Steve.Pfrang@mail.house.gov]
Sent: 8/13/2018 7:40:43 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Rep. LaHood

Hey Ryan –

I hope you're doing well, my friend! I saw you last week at Del Frisco's Grille – I think on Wednesday – with some of your colleagues from EPA. You were pretty surrounded so I didn't get a chance to come over and say hi. I trust that everything has slowly started to settle back down for you guys.

I was hoping to connect with you as I'm currently in the process of looking for a couple new staff members for our DC office. I'm looking for a new scheduler as well as a deputy comms staff. I'm not sure if you might know of anyone who would be looking, but I'd be grateful for your consideration! If you have any resumes, please don't hesitate to send 'em over.

Thanks in advance Ryan – hope to see you soon!

Regards,

Steve

Steven Pfrang
Chief of Staff
Rep. Darin LaHood (IL-18)
202.226.0133

Message

From: Tom Gorman [tomg@chetu.com]
Sent: 7/26/2018 2:40:33 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: AWWA - Thank you from Chetu! - Custom software developers

Hi Ryan,

Thank you for meeting with me at AWWA this year. As we discussed, we need to get on a quick call to recap our notes and provide you a solution to your technology development requirements.

What day is good for you to huddle up for a quick call?

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https://www.chetu.com/blogs/agriculture/water-management-applications.php

Water Utility development services:
https://www.chetu.com/utilities/water.php

What day do you have for a quick conversation? Reply to this email or msg me on LinkedIn:
https://www.linkedin.com/in/tom-gorman-053b9767/

Tom Gorman

Chetu, Inc. est. 2000

Cell: 954.881.3702 l Email: tomg@chetu.com
LinkedIn: https://www.linkedin.com/in/tom-gorman-053b9767

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Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 8/11/2018 10:37:47 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Travel Training - Instructor-Led and Online Courses for the FTR and JTREnter email subject here

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Travel Training – Instructor-Led and Online Courses for the FTR and JTR "nbsp" A full slate of travel training courses are available for you to take in August and September in the DC area, Denver, and Seattle. Custom on-site courses can also be arranged. Online courses are available to take at your desktop. The following classes are being held: nbsp • TDY - FTR (Aug 28-29) DC Area (Crystal City) nbsp • Advanced TDY - FTR (Aug 30) Crystal City (DC Area) nbsp • TDY Air and Fly America Act (Sep 5) - Crystal City (DC area) nbsp • Approving Officials Responsibilities - (Sep 6) - Crystal City (DC Area) nbsp • TDY - FTR (Sep 18-19) Denver nbsp • Advanced TDY - FTR (Sep 20) Denver nbsp • Approving Officials Responsibilities - (Sep 21) - Denver nbsp • TDY - JTR (Sep 25-26) Seattle nbsp • Advanced TDY - JTR (Sep 27) Seattle nbsp Online Travel Training Courses are available 24/7/365 for only $100-$200, including: nbsp 1. Fly America Act and Open Skies Agreements - Online nbsp 2. Approving Officials - Online nbsp 3. FTR In-Depth - Online nbsp 4. Travel Basics – Online nbsp 5. Attending a Conference - Online nbsp Register for our courses at: https://governmenttraining.blackboard.com nbsp If you have an account, your user name is your email address. You can click on forgot password to have your password reset. You can self register and self pay using a procurement card or email governmenttraveltraining@gmail.com for assistance. nbsp Forward email https://ui.constantcontact.com/sa/fwtf.jsp?llr=4kjsul6ab&m=1131040810335&ea=lrinaldo%40cox.net&a=1131064809275&id=preview Greetings!

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Message

From: Chris Cornillie [bbg_gov@bgov.com]
Sent: 7/30/2018 3:01:54 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Interview On Wednesday With FEMA CTO.

Dear Ryan,

On Wednesday, August 1, I'll be moderating a panel with FEMA CTO Ted Okada, White House/U.S. Digital Service Expert Clare Martorana (tentatively confirmed), and Red Hat Chief Architect Adam Clater on how automation and modernization can improve productivity, reliability, and security for federal agencies. Are you available to view this live webcast at 1 pm ET?

I plan to ask our panelists about their experiences implementing high-value automation and modernization projects. Are there additional topics you'd like me to discuss? My goal is to arm viewers with some tips and tricks you can use for managing your own projects.

Click here to register. If you can't attend live, please register and we'll send you a link to view the replay.

Hope you can join us on Wednesday.

Best,

Chris Cornillie
Federal Market Analyst
Bloomberg Government

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Message

From: Defense Tech Expos [lrinaldo@cox.net]
Sent: 8/14/2018 3:13:26 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Travel Training – Instructor-Led and Online Courses for the FTR and JTR

Travel Training – Instructor-Led and Online Courses for the FTR and JTR

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- Advanced TDY - FTR (Aug 30) Crystal City (DC Area)
- TDY Air and Fly America Act (Sep 5) - Crystal City (DC area)
- Approving Officials Responsibilities - (Sep 6) - Crystal City (DC Area)
- TDY - FTR (Sep 18-19) Denver
- Advanced TDY - FTR (Sep 20) Denver
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Message

From: Cutler, Aaron S. [aaron.cutler@hoganlovells.com]
Sent: 8/10/2018 5:17:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: a belated thank you

Ryan,

Thank you for meeting with me and my client HollyFrontier a few weeks ago. Please pass along my sincere thanks to the Administrator as well. I know how busy you guys are, and the fact that you squeezed us in is greatly appreciated.

Have a great weekend.

Aaron

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Message

From: Amy Harder [amy@axios.com]
Sent: 7/30/2018 9:29:51 AM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Industry lobby on Obama treaty faces Trump skepticism

Industry lobby on Obama treaty faces Trump skepticism

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Linked here and copied below: http://axios.link/Tx54

Also publishing Sunday, my colleague Jonathan Swan and I reported on the

contradictions common in President Trump's energy policy.

ICYMI my coverage from last week:
GOP lawmaker introduces carbon tax bill
Shell, BP sign letter praising carbon tax bill
Democrat: GOP carbon tax bill 'missed opportunity'

Cheers,
Amy

COLUMN / HARDER LINE

Industry lobby on Obama treaty faces Trump skepticism

Big manufacturers are running into an uphill battle persuading President Trump to back an Obama-era climate deal.

The big picture: It's proving hard for them to convince a Republican who abhors regulations, dismisses climate change and dislikes global accords to embrace a policy that combines all three. It's also the latest example of industry running into surprise trouble convincing Trump to back policies businesses support, like free trade.

The intrigue: Trump administration officials are concerned about costs to consumers who use appliances affected by the policy, including air conditioners and refrigerators. They're also critical of some of the tactics industry has employed in lobbying, according to multiple current and former government officials.

The details: The policy at hand is an amendment to the Montreal Protocol, a global treaty first created 30 years ago to protect the Earth's ozone layer. The amendment reduces greenhouse gases, known as hydrofluorocarbons or HFC's, emitted from refrigerants in everyday appliances. With leadership by the

Obama administration, world leaders agreed to it in Kigali, Rwanda, less than a month before Trump's election win.

- "There's no question that the administration is working to reduce regulation," said Kevin Fay, executive director of The Alliance for Responsible Atmospheric Policy. "We've interpreted that as reduce or rely on smart regulation, and we put this in the latter category."
- Fay represents companies like Carrier, Honeywell and Dow that make or use chemicals and equipment that contain the gases. HFC's a replacement for other gases that depleted the Earth's ozone layer. But since they're contributing to climate change, they're now targeted for reduction.
- Fay's member companies will be hit by the policy shift, but they have invested millions over many years planning for it. So in a twist on conventional wisdom, industry is pushing for regulation.
- "We've been reminded numerous times that this administration is not here to regulate greenhouse gases," Fay said.

Backers of the policy, including the U.S. Chamber of Commerce, National Association of Manufacturers and Americans for Tax Reform, are seeking to persuade the president by soaking their pitch in Trumpian language.

- Last week, a new industry coalition launched, called Let America Lead, that focuses on how the policy creates American jobs and gives U.S. companies a competitive edge over foreign companies in manufacturing and trade, particularly with China. It has gathered a list of support statementsfrom conservatives. Climate change isn't mentioned.
- The coalition has enlisted the strategic advice of George David Banks, a former top White House official under Trump who worked on this issue. "Kigali furthers the president's trade agenda," Banks said. "There's a perfect alignment of what Kigali accomplishes and what the president and his trade team want to see happen."

Not so fast. The administration is still weighing whether to take the necessary next step: Sending the amendment to the Senate for a ratification vote. This uncertainty indicates a shift since November, when a career-level State Department official said the administration supported the policy.

The administration has two main concerns, according to multiple current and former government officials:

1. A perception common across the executive branch that the industry's advocacy push has been ineffective and slow to materialize. One administration official said companies didn't do enough to change their strategy after President Obama left office. "They changed their talking points and scrubbed them of climate change and global warming to say this is all about jobs and innovation," said the official. "It's a little bit of a lazy tactic."
2. Concerns about economic and consumer costs persist. The Environmental Protection Agency is conducting an internal study about consumer costs. The administration has also asked backers of Kigali to provide their own numbers, which Fay said they're pursuing. Also at the request of the administration, industry groups issued a study in May touting the broad economic benefits of the policy.

For the record:

- Fay and other industry officials involved said the coalition was purposefully quieter last year as attention focused on Trump's campaign promise to withdraw the U.S. from the higher-profile Paris climate deal. Kigali goes into force for countries that have ratified it in January.
- Conversations with the administration and Senate Republicans have been constructive and positive, Fay said: "That doesn't mean there aren't skeptical people out there who are concerned about any relationship to climate."

- The White House's National Security Council, which is leading the administration's review, declined to comment.

The Kigali amendment features two attributes that make it far less politically polarized than the Paris deal. This could be pivotal to a final decision.

- **Historical precedent:** The Montreal Protocol has a record of success and GOP origins. President Ronald Reagan — who Trump likes — brokered the original treaty in 1987. Kigali backers also say the amendment process actually started in the final years of the George W. Bush administration.
- **Procedure:** Kigali would face a vote in the Senate. Paris didn't. In that 2015 deal, Obama knew the GOP-controlled Senate wouldn't ratify a climate treaty. So he struck what amounted to a political agreement without legally binding reduction requirements.

The bottom line: Will these differences be enough to get Kigali across the Trump finish line? Compared to Paris, "maybe it has a lesser chance of failing," said an administration official.

Amy
energy reporter, Axios
202.906.9629
@AmyAHarder

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Message

From: Lundy Kiger [lundy.kiger@aes.com]
Sent: 8/15/2018 2:07:53 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: AESSP Electric Contract Likely To End-Privileged & Confidential
Attachments: OGE Letter from LCDC.docx

Ryan,
I know you're busy but I wanted to give you a heads up that OGE will likely on Friday or Monday terminate our electric contract prematurely four years early. It's possible we might buy a few extra months before a final termination but unlikely. AES Shady Point has contracted with OGE for 28 years and has one five-year extension remaining through 2022. It looks like OGE will exercise their option to terminate early. This will likely close our power plant, steam coal production in Oklahoma as well as limestone and trucking into the plant. We have a final meeting with OGE on Monday at the OCC with the PUD Director Brandy Wreath and we're hoping to at least gain a few additional months to better prepare our people and businesses associated as this will be the biggest financial devastation SE Oklahoma has ever experienced.

Attached is a letter from a LeFlore County economic development group to OGE requesting some additional time for the area to get prepared and try to at least avoid some bankruptcies. As soon as a final decision is made on Monday I'll let you know so you don't get blindsided by the announcement that a coal plant in Oklahoma shutting down. Thank you and thank you for your friendship over the years.
Lundy Kiger
AES Shady Point
Ex. 6

LEFLORE COUNTY DEVELOPMENT COALITION

Connecting Community Resources for Economic Growth

August 10, 2018

Mr. Sean Trauschke
Chairman, President & CEO, OG&E Electric Corp.
321 N. Harvey Avenue M/c 1101
Oklahoma City, OK. 73101-0321

RE: AES Shady Point Electric Contract

Mr. Trauschke,

On behalf of the LeFlore County Development Coalition (LCDC) we want to thank you for taking the time last week in speaking with Mayor Shockley related to contract discussions and the importance of the AES power plant located in our county.

The LCDC is made up of civic leaders from different towns in our county who come from business, industry, education, banking and many are self-employed, we're also proud and appreciate that OG&E Rob Ratley is a member of our organization. As you know we work with Rob and the Fort Smith Regional Alliance and fully support the growth at Chaffee Crossing and the completion of 1-49 running through much of the OG&E jurisdiction.

We are business minded people who at least understand that negotiations must be extremely difficult, and complex related to a regulated public utility. But at the same time, we also understand the importance and value of business in rural Oklahoma, and this is our reason for writing you today.

Our goal, Mr. Trauschke, isn't to push the narrative that OG&E must keep the AES contract indefinitely, nor are we asking you to contract with the plant even to its original scheduled ending date of 2022. We understand this is a business decision that requires all OG&E assets today, and in the future, that must be included as a final decision is reached.

But, Mr. Trauschke, we do feel compelled to push the narrative that if OG&E does exit the contract early that you factor in the following in your final decision.

There is nothing that LeFlore County and the people of SE Oklahoma would love more than this facility to become a permanent part of OG&E. OG&E has been a part of SE Oklahoma for decades and we appreciate your people and the leadership over the years that's managed OG&E as one of the best utilities in the nation. But this also isn't the immediate objective of us.

As our Mayor often states, AES is our Google, our American Airlines and our oil field. We depend on AES, businesses associated, and their people, as important pieces of our local community and more importantly our economy.

Our immediate concern is the possibility of the electric contract ending early and the plant closing as early as January 2019. There is just no way that any of us can adequately get prepared,

The people who work at AES, coal companies and their workers, truck drivers, our bankers, even our retail businesses cannot get prepared in such a short time the life changing experience we would encounter from a premature termination of the contract.

Many of the workers have home and car loans who will need to leave the area or start to find new work, we foresee many of these workers defaulting on their loans simply because unemployment compensation won't keep them above water, and there are only so many jobs available in SE Oklahoma for them apply. Bottom line, our people must be able to provide for their families, or at least have adequate time in making financial arrangements.

In addition to defaults on bank loans there are many workers with children in public schools, as well as attending higher education that must also be considered in your final decision.

Also, at a time that Talihina is losing their Veterans Center, Poteau has spent much time legislatively and applying for the RFP to possibly locate the new Veterans Center at Poteau. An announcement of major industries closing soon will all but take Poteau out of the running for the facility to locate in LeFlore County.

Mr. Trauschke, all of this can be avoided if OG&E will consider a slightly different path. There must be a way to reach a decision that's a win for OG & E customers, while at the same time not immediately financially devastating SE Oklahoma.

We understand that an offer has been made to OG&E requesting additional time to help the people working and the companies associated with some additional time to prepare. This offer alone of being accepted could not only help soften the blow for what will be the largest financial disaster in the history of LeFlore County, it also gives additional time for businesses and individuals to better prepare and possibly avoid bankruptcy.

We're asking that you, your leadership and OG&E board of directors consider all that we've provided as options for consideration. We believe there must be a way for a decision to be reached without immediately destroying our county economically.

If OG&E can work with SE Oklahoma to provide additional time for our people to prepare, you can count on members of the LCDC, our Mayor and many business leaders who will be willing to support OG&E in upcoming rate cases if a delay to terminate the electric contract becomes an issue,

We want to thank you for your time and consideration. Thank you for being our community partner, as many of us are also OG&E customers.

Sincerely,

Mark Caldwell
Chairman, LeFlore County Development Coalition

501 S. Broadway

Poteau, Oklahoma 74953

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Lundy Kiger, Vice President AES Shady-point

President Jay Falkner, Carl Albert State College

Garry Ivey, Retired Carl Albert State College

Ted Knight, Attorney Knight & Stockton Law Firm

Message

From: IEDC [iedcnews@iedconline.org]
Sent: 7/26/2018 5:03:16 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Annual Conference Spotlight: Delta CEO + Early Bird Deadline

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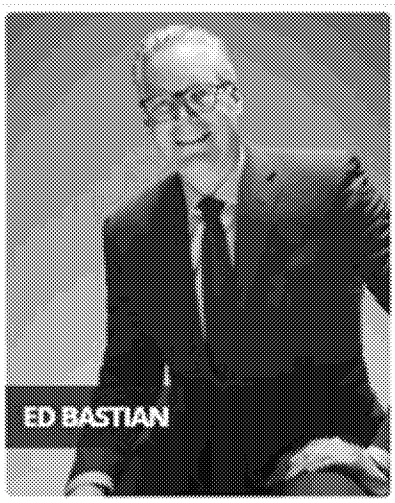
Keynote Speaker Spotlight



CEO
Delta Air Lines
Atlanta, GA

Ed Bastian
CEO
Delta Air Lines
Atlanta, GA

Three things we can all learn from Ed Bastian at the 2018 Annual Conference:

1. How to build a diverse workforce: Fortune magazine honors Delta for workplace diversity

2. Ways to create an inclusive community: Giving

back has been at the heart of Delta for more than 75 years

3. Tips on placemaking: Delta partners with arts institutions across the country

Tomorrow is the last day to register for the Annual Conference at early bird rates! Sign up now to attend the largest yearly gathering of economic development professionals, featuring four plenary sessions and 50+ concurrent sessions exploring the most relevant topics facing economic developers today, five session tracks, prominent keynote speakers, hundreds of economic development experts, networking events galore, and educational tours throughout Atlanta. Examine real life case studies, learn best practices, connect with your peers, and build your confidence and enthusiasm!

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Consultant-led Transformations Underperform

Message

From: Tower Strategy Group [skapoor@towerstrategy.com]
Sent: 8/1/2018 6:19:43 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Transform Your Organization From Within

Transforming From Within

Traditional approaches to support Transformation rely on consultants to play not just the lead but the dominant role. Those efforts are naive because they ignore the unique idiosyncrasies of your culture (cookie-cutter best practices don't work), often rely on systems implementation as a panacea and, frankly, because no consultant will ever understand your business and operations as well as you do. We believe this approach, advocated by consulting firms looking to deploy and bill for armies of their staff, is incorrect. Why? Because while these efforts tend to drive Transformation through your organization rapidly, they result in lower buy-in and stickiness.

We're not alone on this one. Many organizations across both the Public and Private sectors agree. Choosing, instead, the go-it-alone method of Transformation. Whereby they rally their internal teams to diagnose, plot and lead large scale change initiatives. A knee-jerk reaction against consultants that suffers from its own hurdles. Hurdles that slow and stall out Transformation efforts altogether. That's a predictable outcome. At a basic level, you hired people for the expertise they bring to their day-to-day jobs. And those job descriptions didn't screen for Transformation expertise. At a higher level, people have biases because

they have fiefdoms to protect. Few people willingly want to give up or diminish the level of control they possess within an organization. Circular debates and endless decision-making processes ensue.

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Tower Strategy believes there is a middle ground. Transformation can be employee-led but should be centrally coordinated by an objective third party. With your people providing the domain expertise and internal knowledge needed to make certain that the solutions brought to the table (KPI development, organizational restructuring, process / workflow re-design, etc.) actually have relevance to the organization. While a third party consultant:

(1) Leads the upskilling and training needed to equip your teams to re-imagine and adapt their environment

(2) Centrally manages those individual efforts against a common backbone and vision

(3) Provides objectivity on the most political and complex decisions

(4) Measures outcomes, creates accountability and trouble-shoots problem areas to prevent the potential for stallout

This proven model requires that consultants play a different role. Less of the all-knowing Oracle and more of a Transformation Sherpa. Helping your organization prepare for the climb ahead, carrying and providing the right tools and capabilities at the right time and helping to diagnose and overcome the obstacles you'll naturally encounter along the way.

That's why, since 2008, Tower Strategy Group has built and continues to refine a proven methodology and set of analytical, process reengineering and change management tools that allow our clients' teams to create focus, improve efficiency and create and capture ROI on their employee-led Transformation efforts. A set of tools and methods that are simplified and usable across your entire staff. From those with deep Transformation expertise to those just starting the journey for the first time.

Contact us to learn more.

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Message

From: Big Data Update for Government [ManagingBigData@PotomacForumEvent.org]
Sent: 8/9/2018 5:01:20 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: [SPAM-Sender] Leveraging Big Data for Results - Training Workshop

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Office of the CIO
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John Minkoff
CDO, Enforcement Division
Federal Communications Commission (FCC)
==========

Guest Speakers

Kevin Garrison
Principal Director and Director of Analytics
Deputy Chief Information Officer for
Business Process and Systems Review
Department of Defense

Linda Powell
Chief Data Officer
Consumer Financial Protection Bureau
Awaiting Agency Approval

Todd Harbour
Chiief Data Officer
New York State

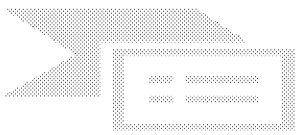
Peter Aiken
Founding Director
Data Blueprint
(Associate Professor,
Virginia Commonwealth University)

Elliot Chikofsky
Chief Data Officer
PathBridge

Additional Speakers to Be Announced Shortly

Organizational Co-Sponsor
International Society of Chief Data Officers
(isCDO)

-



Federal Chief Data Officers

Overview:
We have all seen the results of the big data hype. Big data projects fail at the same alarming rate (2/3rds consistently fail to meet functionality, date or cost plans) that characterize IT investments in general. The failure of big data can be attributed to three specific factors:

1) Without an agreed upon definition of big data all results (measurements, claims of success, quantification) were correctly viewed skeptically and with suspicion!

2) The vast majority of these initiatives were implemented as projects with our corresponding programmatic sponsorship, and

3) These projects were implemented as technology-first initiatives.

This workshop presents the tenants of a data-centric approach to organizational problem solving as necessary but insufficient prerequisites to advantageous data leveraging.

These include:
1. Preparing for dramatic change and accurately describing the work that must be done,
2. Understanding the need for and recruiting qualified, knowledgeable enterprise data talent, and
3. Eliminating the Seven Deadly Data Sins.

Accomplishing these will show you how to recognize opportunities, 'size up' required investments, and properly supervise efforts to properly leverage your data. **This is workshop designed and focused for Federal , State and Local Government Executives, Managers and Staff and Industry Partners**

Press is NOT Permitted to encourage candid discussion.

Why You Should Attend:

- This Workshop provides latest thinking around data that requires a different (updated) perspective that has been offered in the past.
- Data-centric organizational practices can be more usefully defined in objective terms permitting easier implementation.

- Key to data success is to first refine, then improve/share.
- Learn to express data goals and timeframes is ways that get folks thinking in terms of decades but in ways that can show periodic deliverables.
- Very little of this material is incorporated into formal education programs.

Who Should Attend:

Government executives, managers and staff (Federal, State and Local) embarking on either IT or business improvement related initiatives. Data, after all, is at the heart of all of these.

Industry and Consultants supporting government clients.

Special "Send-A-Team" Registration Fees
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3rd and additional students receive a
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Press is NOT Permitted

Registration and Information:

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Info@PotomacForum.org

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Message

From: Ann Dermody [updates@cqrollcall.com]
Sent: 8/14/2018 2:33:28 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: 10 Strategies to Successfully Brief a Hill Staffer or Lawmaker

CQ Roll Call - Marketing Email Template

CQ Ignite

10 Strategies to Successfully Brief a Hill Staffer or Lawmaker

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This email was sent to jackson.ryan@epa.gov. You may change your email subscription settings at any time by clicking **here**.

Message

From: Ryan Jackson Ex. 6
Sent: 7/23/2018 11:33:43 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Ex. 6 Resume.pdf
Attachments: Resume.pdf

Ryan Jackson
Ex. 6

Ex. 6

Message

From: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Sent: 6/19/2018 6:57:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Palich, Christian [palich.christian@epa.gov]
Subject: RE: Peter Wright

Just making sure I understand -- could you run these qs by the ethics attorneys?

For both NPL and non-NPL sites where Dow/Dupont is a PRP, he is recusing permanently if he participated personally and substantially, and for two years if not personally and substantially
No waiver requests

ty

Michal Ilana Freedhoff, Ph.D.
Director of Oversight
Committee on Environment and Public Works Democratic Staff

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Tuesday, June 19, 2018 12:32 PM
To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>
Subject: Peter Wright

Michal, attached is an early recusal letter from Peter Wright, the President's nominee for EPA Assistant Administrator for the Office of Land and Emergency Management. Because Peter is not yet a federal employee, the ethics attorneys requested that we provide the recusal in this format. If you have any questions, please contact me. Ethics attorneys at EPA also expect to be available this afternoon for any questions you may have. I understand that Peter is meeting with Senator Carper in about 3 hours so I'm glad this is not only timely for the hearing but for the meeting.

Thanks,

Ryan

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

Message

From: Revels, Stacy [Stacy.Revels@mail.house.gov]
Sent: 6/20/2018 8:12:19 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]
Subject: RE: WPS/C&T Desk Statement
Attachments: PRIA 4 section by section as reported 06-18-18.docx; RYA18643.pdf

My understanding is that the Senate has reached a deal with Sen. Udall on PRIA and they are working toward a vote as early as tomorrow. The amendment and section by section are attached – hopefully you all have already had a chance to review and provide technical assistance. The Chairman would be interested in getting EPA's take on this. I am available on my cell: Ex. 6

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Friday, June 15, 2018 6:31 PM
To: Ringel, Aaron <ringel.aaron@epa.gov>; Revels, Stacy <Stacy.Revels@mail.house.gov>
Subject: FW: WPS/C&T Desk Statement

Here's a little more formal explanation. But as I mentioned, if Congress strikes a deal let's do it.

WPS and C&T desk statement is below:

- On June 15, 2018, EPA sent proposed revisions to the Agricultural Worker Protection Standard (WPS) and Certification of Pesticide Applicators Rule to OMB and USDA for review. Following OMB review, EPA will send the proposed revisions to the appropriate congressional committees for review. These reviews are part of the normal FIFRA rulemaking process.

- By the end of FY 2018, EPA expects to publish a Notice of Proposed Rulemaking to solicit public input on proposed revisions to the WPS requirements for minimum ages, designated representatives, and application exclusion zones. EPA also expects to publish a Notice of Proposed Rulemaking to solicit public input on proposed revisions to the minimum age requirements for the Certification of Pesticide Applicators Rule by the end of FY 2018.

Background:

In December 2017 EPA initiated processes to 1. consider revisions to certain requirements in the WPS and 2. revise the minimum age requirements in the Certification of Pesticide Applicators Rule.

- Read the Federal Register notice stating EPA is initiating a process to reconsider certain requirements in the WPS.
- Read the Federal Register notice stating EPA is initiating a process to revise the minimum age requirements in the Certification of Pesticide Applicators Rule.

Section by Section H.R. 1029 Reported, with amendments

Sec. 1 provides the short title of the Act.

Sec. 2 amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) reregistration authority.

Subsection (a) authorizes the collection of maintenance fees in the average amount of $31 million for FY2018 through FY2020, increases the maximum annual fee payable by a registrant for FY2018 through FY2020, including registrants that are small businesses, and terminates the authority to collect maintenance fees on Sept. 30, 2020.

Subsection (b) extends a prohibition regarding the collection of other fees under FIFRA, with the exception of pesticide registration service fees, through FY2022 and adds technical language to reflect the pesticide registration service fee tables now included in the statute.

Subsection (c) extends the prohibition on the collection of tolerance fees under an authority in the Federal Food, Drug, and Cosmetic Act through FY2020.

Sec. 3 amends the FIFRA reregistration authority.

Subsection (a) amends the authorized uses of the Reregistration and Expedited Processing Fund to include costs associated with any registration review under the Endangered Species Act of 1973; to offset costs associated with tracking and implementing registration review decisions, including decisions to reduce risk and towards the new set-asides for guidance related to data for products claiming efficacy against invertebrate pests of public health significance and good laboratory practices. Strikes limitation on expending fees during a fiscal year above the amount appropriated from the fund and towards the purposes of the subparagraph.

Subsection (b) extends the set-aside for the review or inert ingredients and the expedited processing of similar applications for FY2018 through FY2020.

Subsection (c) strikes the set-aside for information technology systems and replaces it with a set-aside for products used on particular invertebrate pests, including guidance on efficacy and regulations on product performance requirements.

Subsection (d) authorizes a set-aside for the good laboratory practices standards compliance monitoring program.

Sec. 4 amends the authority for Experimental Use Permits by requiring that an application for a permit covered by a pesticide registration service fee conform with those requirements and requires the Administrator to complete the permit's review by the last day of the applicable timeframe in the tables published in Sec. 6 of this Act.

Sec. 5 amends the FIFRA registration service fees.

Subsection (a) amends the authorization of registration service fees to include actions covered by the tables included in Sec. 6 of this Act; conforms references to "covered applications" under both FIFRA and the tables published in Sec. 6 of this Act; and prohibits a waiver or fee reduction in connection with a "Gold Seal" letter.

Subsection (b) extends through FY2020 the authority to make certain expenditures regarding worker protection, including an emphasis on field-worker populations, from the Pesticide Registration Fund.

Subsection (c) amends the authority to identify and evaluate reforms to the registration process under FIFRA to include streamlining the review process for applications with a new active ingredient or a new use, and providing prompt feedback to applicants.

Subsection (d) amends the requirements regarding decision review periods to include actions covered by the tables published in Sec. 6 of this Act and conforms references to "covered applications".

Subsection (e) extends the reporting requirement regarding pesticide registration service fees through March 1, 2020 and amends the report to include the number of registration review decisions completed as well as particular data on the number of pesticide cases reviewed. Requires new reporting regarding the set-asides and requirements for both guidance related to data for products claiming efficacy against invertebrate pests of public health significance and good laboratory practices as well as the Design for the Environment program at EPA and funds reserved towards worker protection in the Pesticide Registration Fund.

Subsection (f) terminates the authority for registration service fees on Sept. 30, 2020, adjusts the timeframes for phase out of fees, and cuts off the application of decision review periods on Sept. 30, 2020.

Sec. 6 amends pesticide registration service fees by publishing in statute the revised tables regarding covered pesticide registration applications and other covered actions along with their decision review times and registration service fees.

Sec. 7 provides an effective date.

Amendment No. __ to H.R. 1029 RS

The amendment changes the short title, authorizes maintenance fees for FY2019 through FY2023, extends a prohibition regarding the collection of other fees under FIFRA, with the exception of pesticide registration service fees through 2025, amends the timeframe for fee adjustments on the tables published in Sec. 6 of this Act, and adjusts the timeframes for phase out of fees. The amendment also makes H.R. 1029 effective upon enactment.

Sec. 7 extends H.R. 1029 through FY2023.

Sec. 8 directs the Administrator of the Environmental Protection Agency to carry out two final rules through October 1, 2021. However, the Administrator is directed to promulgate revisions regarding application exclusion zones through notice and comment rulemaking. The Comptroller General is directed to conduct a study and make publically available a report regarding availability of pesticide application and hazard information and worker health and safety and misuse of identified pesticide application and hazard information.

AMENDMENT NO._____ Calendar No._____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 1029

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve pesticide registration and other activities under the Act, to extend and modify fee authorities, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

1 On page 1, line 6, strike "2017" and insert "2018".

2 On page 2, line 12, strike "2018 through 2020" and
3 insert "2019 through 2023".

4 On page 2, line 17, strike "2018 through 2020" and
5 insert "2019 through 2023".

6 On page 2, line 21, strike "2018 through 2020" and
7 insert "2019 through 2023".

On page 3, line 5, strike "2018 through 2020" and insert "2019 through 2023".

On page 3, lines 9 and 10, strike "2018 through 2020" and insert "2019 through 2023".

On page 3, line 23, strike "2017" and insert "2018".

On page 3, line 24, strike "2022" and insert "2025".

On page 7, line 21, strike "2017" and insert "2018".

On page 12, strike lines 23 and 24 and insert the following:

(A) in subparagraph (A)—

(i) by striking "pesticide registration"; and

(ii) by striking "October 1, 2013, and ending on September 30, 2015" and inserting "October 1, 2019, and ending on September 30, 2021";

(B) in subparagraph (B)—

(i) by striking "pesticide registration"; and

(ii) by striking "2015" each place it appears and inserting "2021"; and

On page 13, line 1, strike "(B)" and insert "(C)".

On page 21, line 11, strike "2021" and insert "2024".

On page 21, line 12, strike "2021" and insert "2024".

On page 21, line 19, strike "2022" and insert "2025".

On page 21, line 20, strike "2022" and insert "2025".

On page 22, line 2, strike "2022" and insert "2025".

On page 22, line 3, strike "2022" and insert "2025".

On page 186, strike lines 1 through 3 and insert the following:

SEC. 7. EXTENSION.

Notwithstanding any other provision of this Act or amendment made by this Act, any reference in this Act

or an amendment made by this Act to "2020" shall be deemed to be a reference to "2023".

SEC. 8. AGRICULTURAL WORKER PROTECTION STANDARD; CERTIFICATION OF PESTICIDE APPLICATORS.

(a) IN GENERAL.—Except as provided in subsection (b), during the period beginning on the date of enactment of this Act and ending not earlier than October 1, 2021, the Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator")—

(1) shall carry out—

(A) the final rule of the Administrator entitled "Pesticides; Agricultural Worker Protection Standard Revisions" (80 Fed. Reg. 67496 (November 2, 2015)); and

(B) the final rule of the Administrator entitled "Pesticides; Certification of Pesticide Applicators" (82 Fed. Reg. 952 (January 4, 2017)); and

(2) shall not revise or develop revisions to the rules described in subparagraphs (A) and (B) of paragraph (1).

(b) EXCEPTIONS.—Prior to October 1, 2021, the Administrator may propose, and after a notice and public comment period of not less than 90 days, promulgate revi-

sions to the final rule described in subsection (a)(1)(A) addressing application exclusion zones under part 170 of title 40, Code of Federal Regulations, consistent with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(c) GAO REPORT.—The Comptroller General of the United States shall—

(1) conduct a study on the use of the designated representative, including the effect of that use on the availability of pesticide application and hazard information and worker health and safety; and

(2) not later than October 1, 2021, make publically available a report describing the study under paragraph (1), including any recommendations to prevent the misuse of pesticide application and hazard information, if that misuse is identified.

Message

From: Ex. 6
Sent: 6/5/2018 5:54:14 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Rick Dearborn Ex. 6
Subject: RE: Director, Office of Regulatory Policy and Management
Attachments: ATT00001.txt

Ryan

I would be grateful if you would nudge Brittany Bolen about scheduling a call/visit.

Thanks

--------- Original Message ---------
Subject: RE: Director, Office of Regulatory Policy and Management
From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: 5/30/18 12:31 pm
To: Ex. 6
Cc: "Rick Dearborn" Ex. 6 >

Absolutely. Brittany Bolen will call you in the near future. Thanks for sending us your application.

From: Ex. 6
Sent: Wednesday, May 30, 2018 12:36 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Rick Dearborn Ex. 6 >
Subject: RE: Director, Office of Regulatory Policy and Management

Ryan

I would be grateful if you would ask the appropriate personnel on your staff to contact me to arrange a call/meeting regarding my interest in the above referenced job.

Thank you.

Ex. 6

-------- Original Message --------
Subject: Director, Office of Regulatory Policy and Management
From: Ex. 6
Date: Thu, May 24, 2018 11:52 am
To: jackson.ryan@epa.gov
Cc: "Rick Dearborn" <Ex. 6>

Ryan Jackson

Rick Dearborn was kind enough to forward your contact information regarding my interest in the career job: **Director, Office of Regulatory Policy and Management** with Announcement Number: **RTP-SES-2018-008.**

I would be pleased to visit with you and or the appropriate personnel within the EPA in Washington to personally discuss this position -- whenever it may be necessary.

I am ready to serve, start immediately -- and look forward to your follow up.

Regards

Ex. 6

Message

From: Eric Wolff [ewolff@politico.com]
Sent: 5/14/2018 6:50:50 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Konkus

Hi,

This is Eric Wolff with POLITICO. Sources are telling me that John Konkus will still be at EPA for a while, but we have that nice quote from you in our story. Just wondering if you can share what happened there?

Thanks,

Eric

--
Eric Wolff
Energy Reporter
POLITICO
760-303-1927
ewolff@politico.com
@ericwolff

Message

From: Andrew Churchill [DiscoverUS@qlik.com]
Sent: 5/11/2018 2:03:03 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Last chance to register: Qlik Federal Summit I May 17th

Hello Ryan,

It's your last chance to register for Qlik Federal Summit – your opportunity to take your agency's data analytics to the next level. This one-day event brings together data experts and enthusiasts who are transforming the way federal government accesses, analyzes and shares data.

You'll hear first-hand how organizations like yours are using analytics to support their mission. Here's a sampling of the agenda:

- The **US Army** will discuss how they're improving readiness by using machine learning to predict behavior and out-maneuvering adversaries.
- The **DPPA** will share how they're transforming World War II military records into usable data to locate aircraft crash sites and to make comparisons and associations with aircraft loss incidents that involve unaccounted-for American service members.
- **Team Rubicon** will show how they use analytics to unite the skills of military veterans with first responders to quickly respond to large-scale natural disasters.

Event Details:

Date: May 17, 2018
Location: Ronald Reagan Building, 1300 Pennsylvania Ave NW, Washington, DC
Time: 8:15 AM – 4:15 PM (Registration and breakfast begins at 7:30 AM)

Qlik Federal Summit is free, and 6 CPE credits will be available for attending. Please register now to reserve your seat.

Thank you,

Andrew Churchill
Vice President, Federal
Qlik

If you no longer wish to receive these emails, click on the following link: Unsubscribe

Message

From: Saiyid, Amena [asaiyid@bloombergenvironment.com]
Sent: 5/14/2018 6:36:59 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: Will the EPA be discussing the risk levels estimated by the ASTDR study at the upcoming national summit on pfoa, pfas and two other fluorinated chemicals including GenX

Importance: High

HI Ryan,
I am reaching out to you to find out if the EPA will discuss the findings of the ASTDR toxicological profile study at the upcoming national summit with state officials and interested stakeholders. If so, will that be session open to the public, and if not, why not. I ask because EPA, according to emails obtained by the Union of Concerned scientists, objected to the studies used by ASTDR to estimate risk levels posed by these chemicals. I also would like to understand why the EPA objected to the study used by ASTDR to estimate risk for pfoa and the uncertainty factor used for pfas.
Appreciate a response as I am smack on deadline.
Thanks,
Amena

: : : : : : : : : : : : : : : : : :

Amena H. Saiyid
Water Reporter

Bloomberg Environment

D: 703 341-3695
C: 571-319-6682
asaiyid@bloombergenvironment.com

Message

From: Claire Barnett [cbarnett@healthyschools.org]
Sent: 3/19/2019 7:31:40 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; Edwards, Jonathan [Edwards.Jonathan@epa.gov]; Rowson, David [Rowson.David@epa.gov]; Firestone, Michael [Firestone.Michael@epa.gov]; Brown, Margot [Brown.Margot@epa.gov]
CC: Claire Barnett [cbarnett@healthyschools.org]
Subject: Thankyou - EPA $50M Healthy Schools Program in PB FY 2020

This is a short note to let you know we are thrilled to see the PB FY 2020 $50 Million Healthy Schools Program identified as part of EPA's Core Mission. It is a great first step.

We look forward to learning more about how the grants program will work, and to learning if it will restore and expand resources to EPA's proven schools/child care and child health-related programs.

Claire Barnett, Coordinator, Coalition for Healthier Schools

Proposed EPA program would give $50-million boost to children's health

WASHINGTON (March 18, 2019) — The U.S. Environmental Protection Agency (EPA) is proposing a new $50-million grant program, the *Healthy Schools Grant Program*, to expand the Trump Administration's efforts to protect children where they learn and play. The announcement is part of President Trump's proposed Fiscal Year 2020 budget and supports EPA's ongoing commitment to evaluate and address risks to children's health

"Protecting children's health is a top priority for EPA, and this new funding would help school's address poor and deteriorating conditions that can harm children's health and stymie academic progress," **said EPA Administrator Andrew Wheeler**. "This grant program would help schools, especially those in underserved communities, reduce exposures to environmental hazards, create healthier learning environments, and ensure children can reach their fullest potential."

"Children tend to be at greater risk from environmental hazards than adults because of their greater exposure relative to their body mass and because their developing organs make them more susceptible," **said Dr. Michael Firestone, acting director for EPA's Office of Children's Health Protection**. "This new grant program is aimed at reducing those risks where children spend most of their time learning and playing."

The *Healthy Schools Grant Program* is a comprehensive environmental health grant program with the goal of identifying and addressing environmental health risks in and around schools that contribute to increased absenteeism and reduced academic performance. The program would provide a total of $50 million for schools to identify, prevent, reduce and resolve environmental hazards including:

- reducing childhood lead exposure;
- reducing asthma triggers;
- promoting integrated pest management; and
- reducing or eliminating childhood exposure to one or more toxic chemicals in schools.

Eligible recipients would include state and local governments, federally recognized tribal governments, and non-profit organizations.

Nearly 50 million children attend more than 100,000 K-12 schools every day. Reducing exposures to environmental hazards in schools creates healthier learning environments, which enables children to perform better in the classroom and thereby improve their academic performance and expand their opportunities later in life.

The *Healthy Schools Grant Program* would also support the *Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts* (*Lead Action Plan*), which was unveiled in December by EPA and 16 other federal departments and offices. The *Lead Action Plan* was developed by the *President's Task Force on Environmental Health Risks and Safety Risks to Children* as a blueprint for reducing lead exposure and associated harms by working with states, tribes and local communities, along with businesses, property owners and parents.

To learn more about what EPA is doing to promote healthy schools, visit: www.epa.gov/schools, and to learn about all of EPA's Children's Health programs, visit: www.epa.gov/children.

Claire L. Barnett, MBA, Founder and Executive Director
Healthy Schools Network, Inc.
(w) 518-462-0632
(m) 202-543-7555

Coordinator, National Coalition for Healthier Schools
...providing the platform and the forum for environmental health at school ... since 2001

HealthySchools.org - for children, health, environment, education and communities since 1995
NationalHealthySchoolsDay.org - celebrated every spring since 2002
CleaningforHealthySchools.org - green & healthy products for schools

Message

From: David Schwietert [DSchwietert@autoalliance.org]
Sent: 5/31/2018 10:23:02 PM
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; Harlow, David [harlow.david@epa.gov]; Lewis, Josh [Lewis.Josh@epa.gov]
CC: Mitch Bainwol [MBainwol@autoalliance.org]; John Whatley [JWhatley@autoalliance.org]; Chris Nevers [CNevers@autoalliance.org]; Gloria Bergquist [GBERGQUIST@autoalliance.org]
Subject: Auto Alliance submittal to CARB on their Deemed to Comply docket
Attachments: Alliance Comments on CARB Deemed to Comply.pdf

Deputy Administrator Wheeler, Assistant Administrator Wehrum, Ryan, Mandy, David and Josh,

I wanted to share this filing that we make earlier this afternoon.

This was submitted after CARB opened up a docket about potentially clarifying what their "Deemed to Comply" provision means for purposes of GHG standards.

You will see in the attached how it would be against the 2012 agreement to allow CARB to unilaterally back away from ONP if there were to be changes to the MY 2022-2025 standards because the agreement was clear that such future standards could go up, down or stay the same after the mid term review.

A unilateral change to that understanding would sever the ONP agreement. We concluded our filing with the following summation:

> The ARB's "deemed to comply" provision fulfills its commitment to allow compliance with the federal program, even if amended after 2012, to constitute compliance with the California program. That has been the universal understanding of the automakers, EPA and the ARB itself from the time they entered into an agreement to pursue the One National Program for MYs 2017-2025. The ARB has never until now suggested otherwise. The ARB may not, without rulemaking, modify the "deemed to comply" provision to limit the compliance option only to the currently adopted federal regulations regardless of any changes to the federal program. The ARB should not make such changes to the "deemed to comply" regulation. Rather than acting now to disrupt the One National Program, the ARB should participate in the federal rulemaking and, like other stakeholders, consider whether further recourse is warranted at the conclusion of that process.

Happy to answer any questions you may have.

Dave

David Schwietert
Executive Vice President, Federal Government Relations & Public Policy
P: 202-326-5521 | dschwietert@autoalliance.org

ALLIANCE OF AUTOMOBILE MANUFACTURERS
803 7th Street, NW
Suite 300
Washington, DC 20001
Main Phone: 202-326-5500
Main Fax: 202-326-5567

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May 31, 2018

Sarah Carter
Air Resources Board
9480 Telstar Avenue, Suite 4
El Monte, California 91731

Re: Request for Public Input on Potential Alternatives to a Potential Clarification of the "Deemed to Comply" Provision for the LEV III Greenhouse Gas Emission Regulations for Model Years Affected by Pending Federal Rulemakings

Dear Ms. Carter:

On behalf of the Alliance of Automobile Manufacturers ("Alliance), thank you for the opportunity to comment on the California Air Resources Board ("ARB") May 7, 2018 Request for Public Input on Potential Alternatives to a Potential Clarification of the "Deemed to Comply" Provision for the LEV III Greenhouse Gas Emission Regulations for Model Years Affected by Pending Federal Rulemakings (the "May 7 Notice"). The Alliance is a trade association of automobile manufacturers representing approximately seventy percent of all car and light truck sales in the United States.[1]

The Alliance remains a strong advocate for One National Program, which enables auto manufacturers to make predictable investments in a nationwide fleet of light-duty vehicles while driving reductions in GHG emissions over time. The ARB's continued participation in One National Program is essential. In a recent White House meeting, the Alliance and other industry representatives urged the Trump Administration to pursue solutions that preserve the ARB's partnership in One National Program.

We are optimistic that continued dialogue will enable all stakeholders to find common ground to continue One National Program. Adhering in good faith to our prior commitments in support of a harmonized national program will provide the best possible foundation for the discussions to come.

According to the May 7 Notice, in response to EPA's April 13, 2018 determination that the MY 2022-2025 standards are not appropriate, "ARB disagrees and may consider amending its GHG standards to clarify the 'deemed to comply' provision applies to the current federal GHG standards should U.S. EPA change the standards for any model years." The ARB further states that "its regulatory text clearly refers to the current federal standards adopted as part of the national program" and that it is considering clarifying, without changing any of the requirements

[1] The Alliance's members include BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America, and Volvo Car USA. For more information, go to: https://autoalliance.org.

in its regulation that "compliance with any weakened federal standards" will not be deemed compliance with CARB standards for the model years affected."

As explained in the attached Alliance comments, the "deemed to comply" provision allows manufacturers to demonstrate compliance with the California greenhouse gas ("GHG") requirements by demonstrating compliance with the federal GHG program for MY 2017-2025, *even if the federal standards are amended.* The stakeholders' commitments in 2011 to the One National Program framework for MY 2017-2025, as well as the language and history of the ARB regulations, make this amply clear:

1. The ARB adopted the "deemed to comply" provision in late 2012 as part of a coordinated agreement among the ARB, EPA, NHTSA and the automobile manufacturers to support One National Program by making compliance with the federal GHG standards a compliance option, "even amended after 2012." The stakeholders recognized the need for a Mid-term Evaluation of the standards due to the long timeframe of the rule, and that EPA might change the standards as a result.

2. ARB's "deemed to comply" rule covering the 2017-2025 model years—unlike the corresponding provision for the 2012-2016 model years—is not tied to federal rules codified as of a specific date.

3. In the rulemaking to adopt the "deemed to comply" provision, ARB's Initial Statement of Reasons quotes EPA's own understanding that ARB's rules will deem compliance with the EPA standards, "even if amended after 2012, as compliant with California's." ISOR at 2-3.

The attached comments elaborate on these points in more detail.

The ARB's July 2011 commitment letter reserved California's ability "to contest final actions taken or not taken by EPA or NHTSA as part of or in response to the mid-term evaluation." But an attempt to limit the "deemed to comply" option to ARB's preferred version of the federal rules would go beyond a challenge to the Mid-term Evaluation outcome and depart from the One National Program framework upon which the stakeholders had agreed.

Thank you for your attention to these comments. We trust that all stakeholders including California will hold firm to their prior commitments while we collectively work toward the continuation of One National Program.

Sincerely,

Chris Nevers
Vice President, Energy and Environment

COMMENTS OF ALLIANCE OF AUTOMOBILE MANUFACTURERS

The ARB's May 7 Notice indicates that the Board "may consider amending its GHG standards" in order to "clarify" the intent of its current GHG regulations to mean that "the 'deemed to comply' option is available only for the currently adopted federal regulations (as of the date of this notice) for the model years affected by the pending federal rulemaking if those rules are weakened." Notice at 2. As explained in detail below, the concept under consideration by ARB is not consistent with the understandings reached by the stakeholders when the 2017-2025 framework for One National Program was put in place. Under that framework, all parties understood that the "deemed to comply" provision would continue in force regardless of any changes made to the federal regulations as a result of the Mid-term Evaluation (or otherwise). Amending the "deemed to comply" provision now would constitute a significant departure from the commitments made by ARB in July 2011. Rather than pursue a course of action that would diverge from ARB's prior commitments, and that could potentially lead to a breakdown of One National Program, ARB should participate in the federal rulemaking. All parties have reserved their rights to challenge the outcome of that proceeding.

I. California Committed to Adopt Regulations to Deem Compliance with the Federal GHG Program, Even if Amended, to Satisfy California Requirements.

In July 2011, automakers, California, and the federal government committed to take a series of actions to develop national GHG standards for MY 2017 through 2025 motor vehicles. This approach was based generally on the One National Program that these same participants agreed upon in 2009 for MYs 2012 through 2016. For MYs 2012 through 2016, the auto manufacturers agreed to dismiss litigation challenging the California standards as preempted as long as the ARB revised its standards to specify that compliance with the EPA standards would be deemed compliance with the California standards.[1]

Building on the MY 2012-2016 program, the parties negotiated a similar agreement in 2011 for MYs 2017 through 2025, with an important distinction. Specifically, because the standards for MYs 2022 through 2025 were much further into the future at the time of the agreement than the MY 2012-2016 standards had been, the parties recognized that no one could accurately project the circumstances affecting the feasibility of those standards. *See* 77 Fed. Reg. 62,624, 62,652 (Oct. 15, 2012) (noting the "long time-frame of the rule and the uncertainty in assumptions due to this long timeframe"). Accordingly, the parties agreed that EPA, in coordination with NHTSA and the ARB, would undertake a Mid-Term Evaluation (referenced by the ARB as a "Mid-Term Review"), of the standards for MYs 2022-2025 to determine by April 1, 2018 whether those standards remained appropriate. *See* 40 C.F.R. 86.1818-12(h). If EPA determined that the standards were no longer appropriate, EPA would propose revised standards in tandem with NHTSA's rulemaking to adopt fuel economy standards. *Id.*; 77 Fed. Reg. at 62,785.

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[1] *See generally* Alliance of Automobile Manufacturers Commitment Letter (May 18, 2009), available at https://www.epa.gov/sites/production/files/2016-10/documents/alliance-of-automobile.pdf; CARB Commitment Letter (May 18, 2009), available at https://www.epa.gov/sites/production/files/2016-10/documents/air-resources-board.pdf.

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The parties memorialized their understanding in "commitment letters." Emphasizing the importance of the Mid-Term Evaluation, the automakers committed not to contest final standards adopted by EPA, NHTSA and the ARB for MYs 2017-2025 assuming certain conditions were met. Those conditions were that: (a) the standards adopted were in accordance with those proposed; and (b) the ARB adopted standards "such that compliance with the GHG emissions standards adopted by EPA, even if amended after 2012, shall be deemed compliance with the California GHG emissions standards, in a manner that is binding on states that adopt and enforce California's GHG standards under Clean Air Act (CAA) section 177." (Emphasis added.)[2]

For its part, California's commitment letter likewise stated that it would not challenge the EPA/NHTSA standards and would propose to revise its standards for MYs 2017-2025 "such that compliance with the GHG emissions standards adopted by EPA for those model years that are substantially as described in the July 2011 Notice of Intent, even if amended after 2012, shall be deemed compliance with the California GHG emissions standards. . . ."[3] (Emphasis added.) California further stated in its letter that it "will fully participate in the mid-term evaluation." *Id.* Both California and the automakers reserved their rights to contest final actions taken or not taken as part of or in response to the Mid-Term Evaluation. *Id.* The automakers further committed not to contest EPA's granting California a waiver of preemption under section 209 of the CAA for its MY 2017-2025 standards if California revised its regulations to include the specified "deemed to comply" provision, but this commitment did not apply "to subsequent amendments California may make."[4]

In other words, at the time the ARB committed to adopt the "deemed to comply" provision for MY 2017 through 2025 motor vehicles, all stakeholders involved understood that compliance with the federal standards – even if those standards were later amended – would be deemed compliance with the California GHG requirements. They anticipated that EPA and the ARB might revise the standards based on the Mid-Term Evaluation, and the automakers and the ARB reserved their rights regarding the outcome of that review. Importantly, EPA memorialized in the preamble to its 2011 proposed rule its understanding that the ARB would submit its regulations to EPA for a waiver that "will include such a mid-term evaluation" and "will deem compliance with EPA greenhouse gas emission standards, even if amended after 2012, as compliant with California's." Proposed Rule, 76 Fed. Reg. 74,854, 74,987 (Dec. 1, 2011) (emphasis added). In short, California's commitment in July 2011 to adopt a "deemed to comply" provision for MY 2017 through 2025 motor vehicles contradicts the ARB's current position that "its regulatory text clearly refers to the current federal standards" adopted by EPA in 2012. Put differently, the ARB's proposed amendments to the "deemed to comply" option are not a mere "clarification" of the regulatory text.

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[2] *See, e.g.*, Letter from Alan Mulally, President and CEO, Ford Motor Company, to The Honorable Lisa Jackson, Administrator, United States Environmental Protection Agency and The Honorable Ray LaHood, Secretary, United States Department of Transportation, July 29, 2011 ("Ford Commitment Letter"), available at https://www.epa.gov/sites/production/files/2016-10/documents/ford-commitment-ltr.pdf.

[3] CARB Commitment Letter (July 11, 2011), available at https://www.epa.gov/sites/production/files/2016-10/documents/carb-commitment-ltr.pdf.

[4] *See, e.g.*, Ford Commitment Letter.

II. CARB's Regulatory Language and Rulemaking Record Demonstrate that the "Deemed to Comply" Option Is Not Tied to Specific Federal GHG Standards.

As adopted, the ARB regulations are consistent with the commitment it made, deeming compliance with the EPA standards sufficient to demonstrate compliance, without incorporating specific EPA standards. The provision states:

> For the 2017 through 2025 model years, a manufacturer may elect to demonstrate compliance with this section 1961.3 by demonstrating compliance with the 2017 through 2025 MY National greenhouse gas program…

13 CCR § 1961.3(c). The reference to the national "program" reasonably encompasses any revisions to the program, which the parties well understood could happen. Indeed, such a general incorporation would also encompass an EPA determination in response to the Mid-Term Evaluation to make the federal program *more* stringent.

Lest there be any question, the ARB has an established practice for incorporating specific date-delimited EPA regulations by reference, and routinely does so in other related contexts – but not here. The ARB explained this practice in March 2012, when it adopted certain test procedures that were incorporated by reference in 13 CCR § 1961.2(d). In those test procedures, the ARB explained:

> The provisions of Subparts B, C, and S, Part 86, Title 40, Code of Federal Regulations, <u>as adopted or amended on May 4, 1999 or as last amended on such other date set forth next to the 40 CFR Part 86 section title listed below</u>, and to the extent they pertain to exhaust emission standards and test procedures, are hereby adopted . . . , with the following exceptions and additions.[5]

In other words, the ARB explicitly identifies the specific date of the CFR regulations when it means to adopt them by reference.

In fact, the ARB followed just this approach in the very same rulemaking in which it adopted the "deemed to comply" provision. On December 6, 2012, the ARB amended the test procedures incorporated by reference at 13 CCR § 1961.2(d) to include the "deemed to comply" provision, among other changes.[6] The ARB did so *after EPA's October 2012 final rule*

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[5] California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, at A-1 (March 22, 2012), available at https://www.arb.ca.gov/msprog/levprog/cleandoc/ldtps_2015+_cp_or_2017+_ghg_my_lev_iii_clean_complete_8-12.pdf.

[6] California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, at 17 (December 6, 2012), available at https://www.arb.ca.gov/regact/2012/leviiidtc12/ldtps2015+cp2017rev.pdf (hereinafter "December 2012 Test Procedures"). The ARB amended the test procedures again on September 2, 2015, but did not make any modifications to the "deemed to comply" provision.

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promulgating the MY 2017-2025 standards, when it could readily have followed its practice of incorporating those standards by specific reference to the CFR with an associated date. Indeed, in several other places in the amended test procedures, the ARB did include specific date references next to the 40 CFR Part 86 section to indicate that the provision was incorporated by reference as it existed on a specific date. *See, e.g.*, December 2012 Test Procedures at 5 (incorporating the version of 40 CFR § 86.1810-09 as it existed on October 15, 2012). The ARB did so deliberately, revising the regulations in response to comments that it should reference specific promulgation dates where it intended to freeze them in time. *See* Final Statement of Reasons at 2 (Dec. 2012).

But the ARB's "deemed to comply" provision for MYs 2017-2025 does not include reference to the Code of Federal Regulations or the Federal Register as of a specific date. Rather, the ARB specifically defined "2017 through 2025 MY National greenhouse gas program" in the test procedures and, unlike the test procedures incorporated with CFR references as of specific dates, the definition omits any such references:

> "2017 through 2025 MY National greenhouse gas program" or "2017 through 2025 MY National greenhouse gas final rule means the national program that applies to new 2017 through 2025 model year passenger cars, light-duty trucks, and medium-duty passenger vehicles as adopted by the U.S. Environmental Protection Agency as codified in 40 CFR Part 86, Subpart S, as incorporated in and amended by these test procedures.

December 2012 Test Procedures at 4. Even more telling, by contrast, the ARB defined "2012 through 2016 MY National greenhouse gas program" in the same test procedures section of its regulations and *did* specify that the program was incorporated as it existed on a specific date:

> "2012 through 2016 MY National greenhouse gas program" or "2012 through 2016 MY National greenhouse gas final rule" means the national program that applies to new 2012 through 2016 model year passenger cars, light-duty trucks, and medium-duty passenger vehicles <u>as adopted by the U.S. Environmental Protection Agency on April 1, 2010</u> (75 Fed. Reg. 25324, 25677 (May 7, 2010)), as incorporated in and amended by these test procedures.

Id. at 3 (emphasis added). The reason that the ARB omitted any specific reference to the October 2012 final EPA GHG standards for MYs 2017-2025 is plain: Unlike the other incorporated standards, the ARB acted consistent with its commitment and the parties' understanding that compliance with the national program would constitute compliance with the ARB's regulations, even if EPA amended those standards subsequently, as part of the Mid-Term Evaluation or otherwise. The omission was clearly intentional.

Finally, the ARB's rulemaking history makes clear that the ARB intended the provision to follow through on the commitment letters. In its Initial Statement of Reasons for Rulemaking ("ISOR"), the ARB recited its own commitment letter and quoted EPA's statement of its

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understanding that the ARB's rules will deem compliance with the EPA standards, "even if amended after 2012, as compliant with California's." ISOR at 2-3 (Sept. 14, 2012). Also, acknowledging that "most if not all manufacturers are expected to use compliance with the national rule to satisfy California requirements, *id.* at 5, the ARB justified retaining its own Advanced Clean Car standards so that "the ARB regulation would remain in place in the event the National Program ceases." *Id.* This demonstrates that the ARB intended the "deemed to comply" provision to refer to federal standards however amended by EPA, and contradicts the ARB's suggestion in the May 7 notice that the ARB locked in the federal standards as adopted in 2012. After all, if the ARB enshrined in its own regulations the federal standards as of 2012 by reference, cessation of the federal program would have no impact on the California compliance options: automakers would continue to have the choice to option to comply with the federal standards as adopted in 2012. The ARB's concern that it needed to retain its own standards in case the National Program might cease shows that ARB understood that it was providing a federal compliance option that was subject to change.

Likewise, the ARB's response to comments in its FSOR confirm the understanding at the time that the "deemed to comply" provision applies even for federal standards as might be amended. FSOR at 10. There, the ARB recited the Alliance's comment that the ARB's commitment reserved the right to contest actions taken or not taken in response to the Mid-Term Evaluation and to revise its standards to provide that "compliance with EPA's 2017-2025 motor vehicle greenhouse gas standards, '<u>even if amended after 2012</u>,' shall be deemed compliance with California's motor vehicle greenhouse gas standards." *Id.* The quoted Alliance comment further explained that California's remedy if dissatisfied with the outcome of EPA's Mid-Term Evaluation is to seek judicial review of EPA's determinations, not to eliminate the "'deemed to comply' provisions and begin enforcing its own program." *Id.* The Alliance was thus explicit that it understood the ARB regulations to mean that the "option to comply with the federal program will continue through 2025, whatever the final outcome of the mid-term evaluation." *Id.* The ARB did not disagree with this basic premise in its response to the Alliance's comment.

III. The ARB May Not Revise the Deemed to Comply Meaning Without Rulemaking.

The "deemed to comply" provision in the current ARB regulations means that compliance with the federal program for MY 2017-2025 satisfies California's requirements, even if EPA changes its regulations; the ARB may not "clarify" that provision to mean otherwise without rulemaking. Rather, if the ARB wishes to modify its regulations to specify that the "deemed to comply" option is available only for the currently adopted federal program, the ARB must do so following rulemaking procedures under the California Administrative Procedure Act ("APA").

The APA requires rulemaking for the ARB to adopt or modify a regulation, defined as any requirement of general applicability "to implement, interpret or make specific the law enforced or administered by it, or to govern its procedures." Cal. Gov't Code § 11342.600. Further, the APA prohibits ARB from issuing, using, enforcing or attempting to enforce a guideline, instruction, standard of general application or other rule that is a regulation unless it is adopted pursuant to the APA rulemaking requirements. *Id.* § 11340.5(a); *see also, e.g.*, *Union of Am. Physicians & Dentists* v. *Kizer* Cal. App. 3d 490, 506 (1990) ("If an agency adopts a regulation without complying with the APA requirements it is deemed an 'underground

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regulation' and is invalid."). Indeed, even if the "deemed to comply" provision were ambiguous as having more than one meaning on its face, the ARB would be required to amend it because "clarity" is a requirement for all California regulations. *See* Cal. Gov't Code §§ 11349(c), 11349(a)(3) (requiring clarity) and 1 C.C.R. § 16(a)(1) (California Office of Administrative Law rules defining lack of clarity). As described above with regard to the auto manufacturers' commitment letters, ARB changes to the "deemed to comply" provision to limit the compliance option to currently adopted federal regulations would constitute amendments potentially relevant to EPA's actions concerning California's program, the manufacturers' obligations and reservation of rights under their commitment letters, and ultimately the validity of the California regulations.

* * *

The ARB's "deemed to comply" provision fulfills its commitment to allow compliance with the federal program, even if amended after 2012, to constitute compliance with the California program. That has been the universal understanding of the automakers, EPA and the ARB itself from the time they entered into an agreement to pursue the One National Program for MYs 2017-2025. The ARB has never until now suggested otherwise. The ARB may not, without rulemaking, modify the "deemed to comply" provision to limit the compliance option only to the currently adopted federal regulations regardless of any changes to the federal program. The ARB should not make such changes to the "deemed to comply" regulation. Rather than acting now to disrupt the One National Program, the ARB should participate in the federal rulemaking and, like other stakeholders, consider whether further recourse is warranted at the conclusion of that process.

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Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/23/2018 8:56:47 PM
To: Freedhoff, Michal (EPW) [Michal_Freedhoff@epw.senate.gov]
Subject: CARB response
Attachments: 10-23-2018 Response Letter to Ellen Peter CARB for FOIA No. EPA-HQ-2018-011521.pdf; NHTSA CARB FOIA Response_Attachment A.PDF; NHTSA CARB FOIA Final Response ES18-003395 Peter.pdf; NHTSA CARB FOIA Response_Attachment B.PDF

I've not read these yet, but I wanted to pass along the answers to OAR's response. Part of the process involved information from NHTSA as well, so this should be as full as possible.

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

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

October 23, 2018

OFFICE OF
AIR AND RADIATION

Ms. Ellen Peter
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Freedom of Information Act (FOIA) Request EPA-HQ-2018-011521

Dear Ms. Peter:

The Environmental Protection Agency (EPA) is responding to your September 11, 2018, FOIA request that was submitted to FOIAonline. Your request seeks records from both EPA and the National Highway Traffic Safety Administration (NHTSA) related to the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule that amends the existing Corporate Average Fuel Economy (CAFE) standards. NHTSA will respond to parts one though 11 of your request under FOIA ES18-003395. EPA is responding to part 12 of your request under FOIA number EPA-HQ-2018-011521. Part 12 of your request sought:

12. *Modeling tools developed by the EPA including:*

    a. *All files necessary to utilize – with the Advanced Light Duty Powertrain and Hybrid Analysis (ALPHA) and the Optimization Model for reducing Emission of Greenhouse gases from Automobiles (OMEGA) – the response surface equations developed by the EPA as identified or referenced in "Peer Review of EPA's Response Surface Equation Report" and SAE paper 2018-01-1273.*

    b. *All new or modified input files, source code, and executable files for the EPA's OMEGA model developed since the release of the Proposed Determination in late 2016.*

    c. *All current and new input files, source code, and executable files for ALPHA used for the Proposed Determination in late 2016 and/or modified since then.*

    d. *All current and new pre-processors and their inputs used for the Proposed Determination in late 2016 or modified since then to categorize, sort, and rank technology packages and costs for use with OMEGA.*

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Response: EPA's last publicly available version of the ALPHA and OMEGA model is on the EPA web site (and MTE docket) and dated November 2016 (released as part of the Proposed Determination). While EPA has draft updates to the OMEGA and ALPHA models since November 2016, these updates have not been made available to the public. In any event, the ALPHA and OMEGA models were not used to develop the proposed rule.

EPA is reviewing records that may be responsive to this request to determine whether they are appropriate for production, or whether they should be withheld pursuant to statutory exemptions to disclosure. EPA will respond to this portion of the request under FOIA number EPA-HQ-2018-011521.

Once EPA makes a determination under FOIA number EPA-HQ-2018-011521, you will be provided appeal rights accordingly. If you have questions regarding the status of this request, please contact Jonathan Lubetsky at lubetsky.jonathan@epa.gov.

Sincerely,

John Shoaff
Director
Office of Air Policy and Program Support

U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

October 23, 2018

Ms. Ellen Peter
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Via email to: ellen.peter@arb.ca.gov

Re: Freedom of Information Act (FOIA) Request ES18-003395

Dear Ms. Peter:

This responds to your September 11, 2018 FOIA request that was submitted to www.regulations.gov. Your request seeks records related to the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule that amends the existing Corporate Average Fuel Economy (CAFE) standards.

Information related to your FOIA request concerning the SAFE Vehicles Rule is publicly available on NHTSA's website at https://www.nhtsa.gov/corporate-average-fuel-economy/safe. The website and links available there have data related to the 2018 Notice of Proposed Rulemaking for Model Years 2021-2026 Passenger Cars and Light Trucks (proposal) that are responsive to your request. To assist you in locating the publicly available records that you seek, please see the responses to the twelve items listed in your request below:

1. Models and data used to estimate battery costs for electrified vehicles:

    a. Information regarding the BatPaC that the NTHSA and EPA used to estimate battery costs.

    Response: The BatPaC version 3.0 model was used to estimate battery costs. NHTSA does not maintain the BatPaC model. The model is maintained by the U.S. Department of Energy's Argonne National Laboratories (ANL). To obtain a copy of the BatPaC version 3.0 model, please contact ANL directly.

    b. Information specifying the full battery sizes, in kilowatt-hours (kWh), battery pack configuration, and costs used for each vehicle iteration in the CAFE model.

    Response: The full battery sizes in kWh and costs are available in files in the docket for each "tech class." Information for peak battery power, battery total energy in kWh, and battery pack direct manufacturing cost can be found in

columns AN-AR for each of the files listed below. Please note that there are no battery pack configurations.

ANL Compact Non Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1855

ANL Compact Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1856

ANL Small SUV NonPerfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1486

ANL Small SUV Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1485

ANL Pickup NonPerfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1661

ANL Pickup Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1487

ANL Midsize SUV Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1662

ANL Midsize SUV NonPerfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1492

ANL Midsize NonPerfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1494

ANL Midsize Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1663

c. Information regarding the battery chemistries referenced in the proposal and Preliminary Regulatory Impact Analysis.

   Response: NHTSA and EPA used the battery chemistries associated with the BatPaC version 3.0 model.

2. Polk registration data, including survival rates aggregated by model year, calendar year, and body style.

   Response: The Polk registration data is proprietary information and is being withheld in its entirety from disclosure because it is related to trade secrets and commercial or financial information pursuant to FOIA Exemption 4. 49 U.S.C. § 552(b)(4). To

purchase the series of National Vehicle Population Profile (NVPP) datasets, please contact IHS Markit (formerly R.L. Polk & Company) directly.

3. New vehicle sales and price data referenced in the proposal that includes:

   a. Data provided by the National Automobile Dealers Association and others.

      Response: The data provided by the National Automobile Dealers Association is enclosed as Attachment A.

   b. Data describing historical transaction prices, and quarterly new vehicle sales data used to develop the dynamic new sales model.

      Response: The data is provided in the chart below.

Series	Source	Description
GDP.Growth.Rate	FRED	Series: A191RL1Q225SBEA, Real GDP, percent change from preceding period, quarterly, SAAR.
LD.Sales.Adj	FRED/BEA	Light Weight Vehicle Sales: Autos and Light Trucks (ALTSALES), millions of units, quarterly (average) SAAR, available at: https://fred.stlouisfed.org/series/ALTSALES#0; years prior to 1976 developed manually from BEA data using BEA_Sales_gap_hist, available at: https://www.bea.gov/national/xls/gap_hist.xlsx
NADA.Price.Adj	NADA/BEA	Annual (real dollar) transaction price, 1967 - 2016, transformed to quarterly price by using average per-vehicle expenditure variation from BEA to introduce quarterly variation into the NADA average annual price, normalized by quarterly sales to ensure annual average matched NADA annual series.
Labor.Participation	BLS	Derived from BLS series ID: LNS12500000, monthly data averaged by quarter to produce quarterly average full-time employed persons (in thousands) age 16 and over.

c. Economic data used to develop the autoregressive distributed-lag (ARDL) model that predicts new vehicle sales and is used in the CAFE model.

Response: Please see Attachment B.

4. Report of analysis of the standard errors and significance of the ARDL sales model coefficients, F-statistic and R^2 of the overall model, and variable stationarity and cointegration indicators. The coefficients for the ADRL sales model listed on page 957, Table 8-1 of the PRIA, are not consistent with those implemented in the model.

Response: NHTSA has identified an error in Table 8-1. The agency published a revised PRIA correcting the error in Table 8-1, which is reproduced below and available on page 949 of the revised PRIA at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/ld_cafe_co2_nhtsa_2127-al76_epa_pria_181016.pdf.

Table 8-1 - Coefficient estimates for sales model

Coefficients	Estimate	Std.Error	Significance
Intercept	0.509100	0.3221	
LD.Sales, lag1	0.611700	0.0627	0
LD.Sales, lag2	0.204800	0.05755	0
GDP.Growth.Rate	0.148800	0.01738	0
Delta.Transaction.Price	-0.000172	0.00002794	0
Labor.Force.Participation	0.000246	0.0001001	0.05
Labor.Force.Participation, lag1	-0.000229	0.00009896	0.05
F-statistic	363.2		
Adjusted R-squared	0.9184		

5. The coefficients for the dynamic fleet share equation described in the CAFE model documentation on page 79.

Response: Records for the dynamic fleet share equation is provided in the Energy Information Administration's 2016 National Energy Modeling System (NEMS) documentation beginning on page 48 and can be found at https://www.eia.gov/outlooks/aeo/nems/documentation/transportation/pdf/m070(2016).pdf.

A copy of the Fortran code for the NEMS implementation is detailed below. The NEMS implementation in the CAFE model is available in the public source code and described in the CAFE Model Documentation on page 78 at ftp://ftp.nhtsa.dot.gov/CAFE/2021-2026_CAFE_NPRM/CAFE_Model/CAFE_Model/CAFE_Model_Documentation_NPRM_2018.pdf.

```
!...Estimate percent of total light vehicles <8,500 GVW that are
cars
!...coefficients used to determine new car sales
    CCONSTANT =  3.4468
    CRHO      =  0.8903
    CINC      =  0.0     ! disposable income
    CFUEL     =  0.1441  ! fuel cost
    CHP       = -0.4436  ! vehicle horsepower
    CWGT      = -0.0994  ! vehicle weight
    CMPG      = -0.5452  ! vehicle fuel economy
    CDUMM     = -0.1174  ! dummy variable

!...coefficients used to determine new light truck sales
    TCONSTANT =  7.8932
    TRHO      =  0.3482
    TINC      =  0.0     ! disposable income
    TFUEL     = -0.4690  ! fuel cost
    THP       =  1.3607  ! vehicle horsepower
    TWGT      = -1.5664  ! vehicle weight
    TMPG      =  0.0813  ! vehicle fuel economy
    TDUMM     =  0.6192  ! dummy variable

    if(n.le.25)then
      CARSHARE(N) = CARLTSHR(N)
      TRKSHARE(N) = 1.0-CARLTSHR(N)
    else
      CARSHRT(N) = EXP(CCONSTANT*(1-CRHO)+(CRHO*LOG(CARSHARE(N-
1))) +          &
                   CINC *(LOG(INC00$16(11,N))-
(CRHO*LOG(INC00$16(11,N-1)))) + &
                   CFUEL*(LOG(PMGTR00$C(N))  -
(CRHO*LOG(PMGTR00$C(N-1))) +    &
                   CHP  *(LOG(AHPCAR(N-1))   -
(CRHO*LOG(AHPCAR(N-2)))) +      &
                   CWGT *(LOG(AWTCAR(N-1))   -
(CRHO*LOG(AWTCAR(N-2)))) +      &
                   CMPG *(LOG(TRUEMPG(1,N-1)) -
(CRHO*LOG(TRUEMPG(1,N-2))) +    &
                   CDUMM*(log(DUMM(N)) - (CRHO*log(DUMM(N-1)))))

      TRKSHRT(N) = EXP(TCONSTANT*(1-TRHO)+(TRHO*LOG(TRKSHARE(N-
1))) +          &
```

6. Cited reference to Anders Lie, Swedish Transport Administration, Peer Review of NTHSA's November 2011 Preliminary Report "Relationships Between Fatality Risk, Mass, and Footprint in Model Year 2000-2007 Passenger Cars and LTVs."

   Response: The link located on www.regulations.gov appears to be functioning. The Swedish Transport Administration's peer review is available at https://www.regulations.gov/document?D=NHTSA-2010-0152-0035.

7. CAFE model output file Annual Societal Effects Report.

   Response: The CAFE model does not use output societal effects by regulatory class, body style, or weight threshold of vehicle. The basis and coefficients for the calculations are provided in Section II.F of the 2018 NPRM beginning on page 43106 and can be found at https://www.gpo.gov/fdsys/pkg/FR-2018-08-24/pdf/2018-16820.pdf. The exact equations used for the computations are in Section 6 of the NPRM's CAFE Model Documentation and can be found at ftp://ftp.nhtsa.dot.gov/CAFE/2021-2026_CAFE_NPRM/CAFE_Model/CAFE_Model/CAFE_Model_Documentation_NPRM_2018.pdf.

8. The agencies' detailed explanation and derivation of their point estimates for the increase in fatalities per hundred pounds of mass reduction over a constant footprint based on historical crash data, for model years 2004-2011 and calendar years 2006-2012.

   Response: The "updated analysis" referenced in the PRIA at p. 1357, refers to information available in the PRIA in Section 11.4, pps 1345-51. NHTSA intends to publish a technical summary of the logistic regression analysis and its results in the near future. In addition, NHTSA intends to publish a report similar to the "2016 Puckett and Kindelberger report" that will describe the methodological process by which the results were derived. Accordingly, I am withholding these records as exempt from the statutory disclosure requirement that contains information related to pre-decisional agency deliberation, opinions or recommendations pursuant to FOIA Exemption 5. 5 U.S.C. § 552(b)(5).

9. Data used by the agencies to derive the new statistical model that predicts fatality rates by vehicle age.

   Response: The data used to derive the new statistical model for fatality rates was obtained from IHS Markit (formerly R.L. Polk & Company) is proprietary information. Thus, I am withholding the data in its entirety from disclosure because it is related to trade secrets and commercial or financial information pursuant to FOIA Exemption 4. 49 U.S.C. § 552(b)(4). To request a copy of the data, please contact IHS Markit directly.

10. "Off model" analytical tools the agencies used to summarize and tabulate the results of the CAFE model.

    Response: The Supplementary R scripts for table calculations was used to summarize and tabulate the results of the CAFE model and can be found at https://www.nhtsa.gov/corporate-average-fuel-economy/compliance-and-effects-modeling-system.

11. Input files used for the Autonomie model for various engine technologies that the EPA and NTHSA rely on to calculate the efficient improvements of various technologies, such as turbocharging and high-compression-ratio (Atkinson) engines.

    Response: The Autonomie simulation results and assumptions files are available in the docket in the supporting document section at https://www.regulations.gov/docket?D=NHTSA-2018-0067. An overview of the Autonomie model is described in detail in section 6.1 of the PRIA on page 188.

    ANL – All Assumptions Summary
    https://www.regulations.gov/document?D=NHTSA-2018-0067-0005

    ANL – Data Dictionary for Input Files
    https://www.regulations.gov/document?D=NHTSA-2018-0067-0004
    ANL – Model Documentation
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1490

    ANL – Summary of Main Component Performance Assumption
    https://www.regulations.gov/document?D=NHTSA-2018-0067-0003

    Output files:
    ANL Compact NonPerfo
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1855

    ANL Compact Perfo
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1856

    ANL Small SUV NonPerfo
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1486

    ANL Small SUV Perfo
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1485

    ANL Pickup NonPerfo
    https://www.regulations.gov/document?D=NHTSA-2018-0067-1661

ANL Pickup Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1487

ANL Midsize SUV Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1662

ANL Midsize SUV Non Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1492

ANL Midsize NonPerfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1494

ANL Midsize Perfo
https://www.regulations.gov/document?D=NHTSA-2018-0067-1663

12. Modeling tools developed by the EPA including:

    a. All files necessary to utilize – with the Advanced Light Duty Powertrain and Hybrid Analysis (ALPHA) and the Optimization Model for reducing Emission of Greenhouse gases from Automobiles (OMEGA) – the response surface equations developed by the EPA as identified or referenced in "Peer Review of EPA's Response Surface Equation Report" and SAE paper 2018-01-1273.

    b. All new or modified input files, source code, and executable files for the EPA's OMEGA model developed since the release of the Proposed Determination in late 2016.

    c. All current and new input files, source code, and executable files for ALPHA used for the Proposed Determination in late 2016 and/or modified since then.

    d. All current and new pre-processors and their inputs used for the Proposed Determination in late 2016 or modified since then to categorize, sort, and rank technology packages and costs for use with OMEGA.

    Response: Records related to the EPA's modeling tools fall under that agency's jurisdiction and must be requested from the EPA directly.

In your letter, you requested a waiver (or reduction) of fees associated with processing of the request. However, the fees to process your request did not exceed $20.00, which is the minimum amount that NHTSA assesses fees. Pursuant to the provisions of 49 CFR Part 7, there is no charge for this response.

I am the person responsible for this determination. If you wish to appeal this decision, you may do so by writing to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., West Building, W41-227, Washington, DC 20590, pursuant to 49 C.F.R. §

7.32(d). Alternatively, you may submit your appeal via electronic mail to nhtsa.foia.appeal@dot.gov. An appeal must be submitted within 90 days from the date of this determination. It should contain any information and argument upon which you rely. The decision of the Chief Counsel will be administratively final.

You also have the right to seek dispute resolution services from NHTSA's FOIA Public Liaison, Mary Sprague, who may be contacted at (202) 366-3564 or by electronic mail at Mary.Sprague@dot.gov. Further dispute resolution is available through the Office of Government Information Services (OGIS). You may contact OGIS on (202) 741-5770 or by electronic mail at ogis@nara.gov.

Very Truly Yours,

Andrew J. DiMarsico
Senior Attorney

Attachments

Year	Avg New Vehicle Selling Price	Avg Used Vehicle Selling Price	Cars Sold Per Dealer	Current Dollars	Conversion rate	Re-Benchmarked series NV Price	Re-Benchmarked series UV price
1950	$2,050	$691	133	$20,151.50	9.83		
1951	$2,230	$804	110	$20,582.90	9.23		
1952	$2,460	$910	92	$22,263.00	9.05		
1953	$2,540	$816	137	$22,733.00	8.95		
1954	$2,620	$707	137	$23,632.40	9.02		
1955	$2,830	$700	175	$25,441.70	8.99		
1956	$2,860	$738	152	$25,139.40	8.79		
1957	$2,810	$801	153	$23,997.40	8.54		
1958	$2,790	$804	125	$23,324.40	8.36		
1959	$2,840	$843	169	$23,344.80	8.22		
1960	$2,740	$776	191	$22,221.40	8.11		
1961	$2,760	$779	174	$22,245.60	8.06		
1962	$2,810	$807	208	$22,339.50	7.95		
1963	$2,860	$821	225	$22,451.00	7.85		
1964	$2,900	$849	243	$22,533.00	7.77		
1965	$3,030	$938	282	$23,118.90	7.63		
1966	$3,000	$890	286	$22,050.00	7.35		
1967	$3,200	$1,007	268	$22,944.00	7.17		
1968	$3,240	$1,079	309	$22,194.00	6.85		
1969	$3,400	$1,190	311	$22,032.00	6.48		
1970	$3,430	$1,256	323	$21,060.20	6.14		
1971	$3,730	$1,361	397	$22,044.30	5.91		
1972	$3,690	$1,487	438	$21,069.90	5.71		
1973	$3,930	$1,724	471	$20,829.00	5.3		
1974	$4,390		373	$20,764.70	4.73		
1975	$4,750		367	$20,900.00	4.4		
1976	$5,470		444	$22,809.90	4.17		
1977	$6,120		498	$23,990.40	3.92		
1978	$6,470	$3,290	521	$23,292.00	3.6		
1979	$6,950	$3,600	488	$22,309.50	3.21		
1980	$7,530	$3,800	404	$21,460.50	2.85		
1981	$8,850	$4,330	395	$22,921.50	2.59		
1982	$9,910	$4,830	399	$24,378.60	2.46		
1983	$10,725	$5,250	477	$25,632.75	2.39		
1984	$11,100	$5,690	574	$25,530.00	2.3		
1985	$11,925	$5,810	624	$26,473.50	2.22		
1986	$12,950	$5,980	641	$28,360.50	2.19		
1987	$13,450	$6,490	594	$28,245.00	2.1		
1988	$14,100	$7,130	617	$28,341.00	2.01		
1989	$15,400	$7,430	584	$29,568.00	1.92		

1990	$15,900	$7,540	567	$28,779.00	1.81		
1991	$16,050	$7,860	517	$28,248.00	1.76		
1992	$17,100	$8,310	555	$29,070.00	1.7		
1993	$18,200	$9,130	608	$30,212.00	1.66		
1994	$19,200	$10,140	661	$31,104.00	1.62		
1995	$20,450	$11,050	648	$32,106.50	1.57		
1996	$21,900	$11,850	664	$33,507.00	1.53		
1997	$22,650	$12,100	668	$33,975.00	1.5		
1998	$23,600	$12,500	694	$34,692.00	1.47		
1999	$24,450	$13,200	759	$35,208.00	1.44		
2000	$24,900	$13,600	783	$34,611.00	1.39		
2001	$25,800	$13,900	785	$35,088.00	1.36		
2002	$26,150	$13,850	774	$34,779.50	1.33		
2003	$27,550	$13,500	831	$36,090.50	1.31		
2004	$28,050	$14,250	843	$35,623.51	1.27		
2005	$28,400	$14,925	852	$34,364.00	1.21		
2006	$28,450	$15,518	840	$34,140.00	1.2		
2007	$28,800	$15,715	837	$33,408.00	1.16		
2008	$28,350	$15,200	713	$31,752.00	1.12		
2009	$28,966	$14,980	615	$32,441.92	1.12	$28,133	$15,210
2010	$29,793	$16,474	714	$33,070.23	1.11	$30,079	$16,554
2011	$30,659	$17,267	793	$32,805.13	1.07	$30,982	$17,311
2012	$30,910	$17,547	896	$32,455.50	1.05	$31,194	$17,556
2013	$31,762	$18,111	960	$33,032.04	1.04	$32,035	$18,081
2014	$32,618	$18,846	1003	$33,270.15	1.02	$32,824	$18,839
2015	$33,419	$19,397	1050	$34,087.85	1.02	$33,456	$19,400
2016						$34,449	$19,886

In 2016, we re-benchmarked our data series. For the average transaction price data, the only changes were in the weighting. We weight the data by th

ıe annual number of dealerships and sales for each brand. We do not believe that this has a substantial effect on the historical series.

	A	B	C	D	E	F	G
1	Time	Year	Quarter	GDP.Growth.Rate	LD.Sales.Adj	NADA.Price.Adj	Labor.Participation
2	0	1967	1	3.7	9.192	22442	
3	1	1967	2	0.3	10.084	21958	
4	2	1967	3	3.5	9.763	22680	
5	3	1967	4	3.2	9.153	24812	
6	4	1968	1	8.4	10.82	21818	64827.66667
7	5	1968	2	6.9	10.811	23139	65358.33333
8	6	1968	3	2.9	11.439	21376	65336.33333
9	7	1968	4	1.8	11.399	22489	65503
10	8	1969	1	6.4	11.273	22196	66126
11	9	1969	2	1.3	11.145	21072	66368.66667
12	10	1969	3	2.5	11.147	23185	66840.66667
13	11	1969	4	-1.7	10.97	21609	66928.66667
14	12	1970	1	-0.7	10.198	20860	66940.33333
15	13	1970	2	0.7	10.539	22135	66673.66667
16	14	1970	3	3.6	10.488	21766	66751
17	15	1970	4	-4	8.019	18979	66654
18	16	1971	1	11.1	11.434	23860	66460.33333
19	17	1971	2	2.3	11.566	22356	66708.66667
20	18	1971	3	3.2	12.075	20845	67074.66667
21	19	1971	4	1.2	12.637	21213	67622
22	20	1972	1	7.4	12.595	21582	68303.66667
23	21	1972	2	9.6	12.812	21333	68978.66667
24	22	1972	3	3.7	12.735	19781	69386
25	23	1972	4	6.8	13.816	21585	70114.66667
26	24	1973	1	10.2	15.011	20562	70947.33333
27	25	1973	2	4.6	14.5	20003	71630
28	26	1973	3	-2.2	13.629	20748	72012.66667
29	27	1973	4	3.8	12.313	22155	72560.33333
30	28	1974	1	-3.3	11.469	18818	73096.66667
31	29	1974	2	1.1	11.347	18816	73269
32	30	1974	3	-3.8	11.833	20859	73244.33333
33	31	1974	4	-1.6	9.151	25491	72824.66667
34	32	1975	1	-4.7	9.878	18849	71389.33333
35	33	1975	2	3.1	9.619	21605	71050.33333
36	34	1975	3	6.8	11.143	21874	71680.33333
37	35	1975	4	5.5	11.732	21138	72268.66667
38	36	1976	1	9.3	12.88	21686	73153.33333
39	37	1976	2	3.1	12.762	23181	73964.66667
40	38	1976	3	2.1	12.975	22743	74213
41	39	1976	4	3	13.247	23636	74532
42	40	1977	1	4.7	14.379	23561	75211.33333
43	41	1977	2	8.1	14.643	23234	76380
44	42	1977	3	7.3	14.356	24502	76976.66667
45	43	1977	4	0	14.565	24621	77922.33333
46	44	1978	1	1.4	14.006	22668	78830
47	45	1978	2	16.5	15.818	22432	79863.66667
48	46	1978	3	4	14.986	23197	80543
49	47	1978	4	5.5	15.082	24939	81415.66667
50	48	1979	1	0.8	14.774	23476	82225.66667
51	49	1979	2	0.5	13.544	23047	82392.33333
52	50	1979	3	2.9	13.888	21123	82721
53	51	1979	4	1	12.866	21386	83344.66667
54	52	1980	1	1.3	12.96	19521	83314.33333
55	53	1980	2	-7.9	9.896	21160	82385.66667
56	54	1980	3	-0.6	10.954	20880	82043.33333
57	55	1980	4	7.6	10.959	24621	82647.66667
58	56	1981	1	8.5	11.779	20229	83224.66667

	A	B	C	D	E	F	G
59	57	1981	2	-2.9	10.184	25149	83615
60	58	1981	3	4.7	11.175	22185	83372
61	59	1981	4	-4.6	9.117	24839	82799
62	60	1982	1	-6.5	10.419	21876	82120.66667
63	61	1982	2	2.2	9.954	26811	81726.33333
64	62	1982	3	-1.4	10.107	26922	81295
65	63	1982	4	0.4	10.973	22106	80606
66	64	1983	1	5.3	10.654	24470	80603
67	65	1983	2	9.4	12.052	23231	81658.66667
68	66	1983	3	8.1	12.346	26561	82930.66667
69	67	1983	4	8.5	13.427	27743	83997.33333
70	68	1984	1	8.2	14.032	25604	85202.33333
71	69	1984	2	7.2	14.352	23996	86475.66667
72	70	1984	3	4	14.041	25106	86970.66667
73	71	1984	4	3.2	14.364	27461	87458
74	72	1985	1	4	15.249	25134	88042
75	73	1985	2	3.7	15.098	26617	88464.33333
76	74	1985	3	6.4	16.888	25414	88425
77	75	1985	4	3	14.536	28817	89259
78	76	1986	1	3.8	14.936	29229	89789.66667
79	77	1986	2	1.9	15.751	28734	90120.66667
80	78	1986	3	4.1	17.901	26220	90904.66667
81	79	1986	4	2.1	15.614	29593	91297
82	80	1987	1	2.8	14.001	29659	91998
83	81	1987	2	4.6	14.93	27724	92560
84	82	1987	3	3.7	15.993	26104	93351
85	83	1987	4	6.8	14.519	29872	93914.33333
86	84	1988	1	2.3	15.93	26094	94509.66667
87	85	1988	2	5.4	15.444	28791	95020.66667
88	86	1988	3	2.3	15.054	28669	95382.66667
89	87	1988	4	5.4	15.317	29983	95927.33333
90	88	1989	1	4.1	14.682	30744	96718.33333
91	89	1989	2	3.2	14.902	28962	97045.33333
92	90	1989	3	3	15.328	27651	97568.33333
93	91	1989	4	0.9	13.204	31095	98015.33333
94	92	1990	1	4.5	14.76	27620	99062.66667
95	93	1990	2	1.6	13.873	29739	98856.33333
96	94	1990	3	0.1	13.799	30003	98592
97	95	1990	4	-3.4	13.021	27711	98285.33333
98	96	1991	1	-1.9	12.129	26193	97527
99	97	1991	2	3.1	12.2	28060	97173.33333
100	98	1991	3	1.9	12.661	29455	97139.66667
101	99	1991	4	1.8	12.266	29148	96973.33333
102	100	1992	1	4.8	12.552	27300	97252
103	101	1992	2	4.5	12.829	28907	97680
104	102	1992	3	3.9	12.778	29549	97773.66667
105	103	1992	4	4.1	13.28	30403	97948.66667
106	104	1993	1	0.8	12.977	31070	98395
107	105	1993	2	2.4	14.212	29119	98783.66667
108	106	1993	3	2	13.698	29698	99328.33333
109	107	1993	4	5.4	14.607	31072	99952
110	108	1994	1	4	15.068	30726	98353.66667
111	109	1994	2	5.6	14.897	30399	99406.33333
112	110	1994	3	2.4	14.807	31754	100255
113	111	1994	4	4.6	15.404	31548	101003
114	112	1995	1	1.4	14.562	32624	101353.3333
115	113	1995	2	1.4	14.472	32138	101447
116	114	1995	3	3.5	14.764	31148	101690.6667

	A	B	C	D	E	F	G
117	115	1995	4	2.9	15.115	32538	102216.6667
118	116	1996	1	2.7	15.114	30508	102325.6667
119	117	1996	2	7.2	15.2	34490	103111
120	118	1996	3	3.7	15.004	35264	103972.6667
121	119	1996	4	4.3	15.071	33795	104753.3333
122	120	1997	1	3.1	15.231	32421	105095.6667
123	121	1997	2	6.2	14.53	33753	106065
124	122	1997	3	5.2	15.223	34426	106932.3333
125	123	1997	4	3.1	15.505	35295	107293
126	124	1998	1	4	14.747	35459	107467
127	125	1998	2	3.9	16.183	32039	107894
128	126	1998	3	5.3	14.825	35273	108354.3333
129	127	1998	4	6.7	16.418	36091	109129.3333
130	128	1999	1	3.2	16.331	35489	109783
131	129	1999	2	3.3	16.773	34761	109909.6667
132	130	1999	3	5.1	17.136	35108	110142.3333
133	131	1999	4	7.1	17.335	35483	111415
134	132	2000	1	1.2	18.272	34895	113348.6667
135	133	2000	2	7.8	17.329	35582	114081.6667
136	134	2000	3	0.5	17.395	33623	113822.6667
137	135	2000	4	2.3	16.402	34319	114163
138	136	2001	1	-1.1	17.184	32989	114295
139	137	2001	2	2.1	16.713	36401	114004.6667
140	138	2001	3	-1.3	16.065	37365	113418
141	139	2001	4	1.1	18.527	33877	112609.6667
142	140	2002	1	3.7	16.671	34502	112566
143	141	2002	2	2.2	16.604	35060	112392
144	142	2002	3	2	17.42	34425	112909.6667
145	143	2002	4	0.3	16.57	35169	112941.6667
146	144	2003	1	2.1	16.137	35994	113068.3333
147	145	2003	2	3.8	16.424	36765	113071.6667
148	146	2003	3	6.9	17.218	35133	113201
149	147	2003	4	4.8	16.777	36498	113947
150	148	2004	1	2.3	16.592	35812	114037.6667
151	149	2004	2	3	16.671	35270	114138.3333
152	150	2004	3	3.7	17.006	35786	114636
153	151	2004	4	3.5	17.198	35606	115204.3333
154	152	2005	1	4.3	16.567	34647	115807
155	153	2005	2	2.1	17.39	33636	116968
156	154	2005	3	3.4	17.984	33718	117412.3333
157	155	2005	4	2.3	15.852	35618	117753.6667
158	156	2006	1	4.9	16.832	34270	118726.3333
159	157	2006	2	1.2	16.363	34383	119328
160	158	2006	3	0.4	16.482	34311	119978.6667
161	159	2006	4	3.2	16.34	33570	120658.3333
162	160	2007	1	0.2	16.373	32990	121115.6667
163	161	2007	2	3.1	16.111	33970	120638.6667
164	162	2007	3	2.7	15.91	34175	121005.3333
165	163	2007	4	1.4	15.961	32490	121620.6667
166	164	2008	1	-2.7	15.115	31949	121445
167	165	2008	2	2	14.232	31607	120620.6667
168	166	2008	3	-1.9	13.079	31883	119821.3333
169	167	2008	4	-8.2	10.354	31497	118280.6667
170	168	2009	1	-5.4	9.383	29612	114736
171	169	2009	2	-0.5	9.716	31018	112990.6667
172	170	2009	3	1.3	11.761	31740	112008.3333
173	171	2009	4	3.9	10.749	36980	110906.3333
174	172	2010	1	1.7	10.776	33540	110851

	A	B	C	D	E	F	G
175	173	2010	2	3.9	11.485	32952	112333.6667
176	174	2010	3	2.7	11.74	34125	112007
177	175	2010	4	2.5	12.217	31745	111655.3333
178	176	2011	1	-1.5	12.782	31673	112316.6667
179	177	2011	2	2.9	12.199	33096	112162
180	178	2011	3	0.8	12.574	33419	112486.6667
181	179	2011	4	4.6	13.417	33022	113303.3333
182	180	2012	1	2.7	14.304	32281	114306.6667
183	181	2012	2	1.9	14.22	33072	114451
184	182	2012	3	0.5	14.293	32956	114854.3333
185	183	2012	4	0.1	14.922	31552	115672
186	184	2013	1	2.8	15.523	32802	115727.6667
187	185	2013	2	0.8	15.494	33240	116139
188	186	2013	3	3.1	15.487	32222	116495
189	187	2013	4	4	15.615	33855	116919.6667
190	188	2014	1	-0.9	15.91	33062	117730.6667
191	189	2014	2	4.6	16.65	32639	118523.3333
192	190	2014	3	5.2	16.661	33781	118831.6667
193	191	2014	4	2	16.588	33654	119827.6667
194	192	2015	1	3.2	16.852	34353	120771.3333
195	193	2015	2	2.7	17.3	34412	121153
196	194	2015	3	1.6	17.742	34837	121797.3333
197	195	2015	4	0.5	17.691	33282	122293.6667
198	196	2016	1	0.6	17.307	33516	123279.6667
199	197	2016	2	2.2	17.234	34299	123369.6667
200	198	2016	3	2.8	17.511	34047	124132.3333
201	199	2016	4	1.8	17.806	33276	124217
202	200	2017	1		17.126		
203	201	2017	2		16.753		

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/17/2018 2:12:14 PM
To: Sarah Reece [sreece@depausa.org]
Subject: RE: [SPAM-Sender] Re: NOV. 4 & 5: DEPA FALL MEETING

Ok.

From: Sarah Reece [mailto:sreece@depausa.org]
Sent: Wednesday, October 17, 2018 7:32 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: [SPAM-Sender] Re: NOV. 4 & 5: DEPA FALL MEETING

Mr. Jackson,
I have a meeting this morning (9am CT) to go over details. Do you mind if I reconnect with you after that meeting? I do know it will be somewhere between 8:30-9:30AM.

Warmest regards,

Sarah
DEPA
405-669-6646

Sent from my iPhone

On Oct 17, 2018, at 6:23 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Sarah, what time on November 5 would be most convenient?
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> 202-564-6999
>
> On Oct 11, 2018, at 12:41 PM, "sreece@depausa.org" <sreece@depausa.org> wrote:
>
> > Dear Mr. Jackson,
> >
> > The Domestic Energy Producers Alliance (DEPA) invites you to join us for our Fall Board Meeting on November 4th and 5th.

We are hosting the top 50 leaders from the domestic oil and gas industry—who represent 31 independent organizations—at the Brown Palace in Denver, CO. Please find the event schedule below.

Sunday, November 4th

2:05 PM Broncos vs. Texans game at the Sports Authority Field at Mile High

6 - 9 PM Reception at the Brown Palace

Monday, November 5th at Noble Energy

7:30 AM Breakfast

8:30 - 9:30 AM DEPA Board Meeting

9:30 AM - 12 PM Meetings

We would be honored if you could be the keynote speaker at one our scheduled times shown above. However, we can also accommodate a time convenient for you.

Thank you for your consideration,

We hope you will be able to join us.

Sincerely,

Sarah

Sarah Reece
Domestic Energy Producers Alliance (DEPA)
PO Box 53038
Oklahoma City, OK 73152
Work (405) 669-6646
sreece@depausa.org
www.depausa.org

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/12/2018 10:51:08 AM
To: Flores, Daniel [Daniel.Flores@mail.house.gov]
CC: Willis, Sharnett [Willis.Sharnett@epa.gov]
Subject: Re:

Yes, here at EPA would be fine. North doors in the main building is best.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

> On Oct 11, 2018, at 9:41 PM, Flores, Daniel <Daniel.Flores@mail.house.gov> wrote:
>
> Yes, that would work well. Should I meet you at the Administrator's office or a different location?
>
> All the best,
>
> Daniel
>
> Sent from my iPhone
>
>> On Oct 11, 2018, at 8:14 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Thanks again for the call. Would say 2:30 in the 18 work?
>>
>>
>>
>>
>>
>>
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> 202-564-6999

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/11/2018 4:12:16 PM
To: Hogin, Andrew [Andrew.Hogin@mail.house.gov]
Subject: Re: See you Friday at 2:00pm

Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 11, 2018, at 9:31 AM, Hogin, Andrew <Andrew.Hogin@mail.house.gov> wrote:

Hey Ryan - 1pm is just fine. See you then.

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: Wednesday, October 10, 2018 at 6:30 PM
To: "Hogin, Andrew" <Andrew.Hogin@mail.house.gov>
Subject: RE: See you Friday at 2:00pm

I hate to quickly get back with you, but would meeting a little early be just as convenient for you? Say 1 instead of 2?

From: Hogin, Andrew [mailto:Andrew.Hogin@mail.house.gov]
Sent: Wednesday, October 10, 2018 1:55 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: See you Friday at 2:00pm

Hey Ryan – great talking to you. I'll see you Friday, thanks.

Andrew Hogin
Senior Legislative Assistant
Office of Congressman David Kustoff
508 Cannon Bldg. Washington D.C. 20515
(o) 202-225-4714
(c) 615-578-1778

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/11/2018 4:09:59 PM
To: Dudis, Dan (Whitehouse) [Dan_Dudis@whitehouse.senate.gov]
CC: Wiegard, Pierce (Sullivan) [Pierce_Wiegard@sullivan.senate.gov]; Leibman, Adena (Whitehouse) [Adena_Leibman@whitehouse.senate.gov]
Subject: Re: RE:

Don't forget to get the redline of it for yourselves from Senate printing and graphics. They are free and a well deserved momento for getting a bill through the process. Big congratulations.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 11, 2018, at 11:52 AM, Dudis, Dan (Whitehouse) <Dan_Dudis@whitehouse.senate.gov> wrote:

> Looping Adena, who worked on this for Senator Whitehouse. She deserves the sharpie!
>
> **From:** Jackson, Ryan <jackson.ryan@epa.gov>
> **Sent:** Thursday, October 11, 2018 11:05 AM
> **To:** Wiegard, Pierce (Sullivan) <Pierce_Wiegard@sullivan.senate.gov>; Dudis, Dan (Whitehouse) <Dan_Dudis@whitehouse.senate.gov>
> **Subject:**
>
> Congratulations on the signing of the Save our Seas Act today. Administrator Wheeler is on travel today but would otherwise attend. He mentioned your bill at the G7 environmental ministers meeting in Halifax a month ago. Be sure to get a pen. The Sharpie's are pretty unique.
>
> Ryan Jackson
> Chief of Staff
> U.S. Environmental Protection Agency
> (202) 564-6999

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/10/2018 6:44:15 PM
To: Hogin, Andrew [Andrew.Hogin@mail.house.gov]
Subject: RE: See you Friday at 2:00pm

Thanks again.

From: Hogin, Andrew [mailto:Andrew.Hogin@mail.house.gov]
Sent: Wednesday, October 10, 2018 1:55 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: See you Friday at 2:00pm

Hey Ryan – great talking to you. I'll see you Friday, thanks.

Andrew Hogin
Senior Legislative Assistant
Office of Congressman David Kustoff
508 Cannon Bldg. Washington D.C. 20515
(o) 202-225-4714
(c) 615-578-1778

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/19/2018 7:46:45 PM
To: Memmott, Justin (EPW) [Justin_Memmott@epw.senate.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: RE: Barrasso Praises EPA's Withdrawal of Obama Administration's Midnight Uranium Rule

Always a pleasure doing business with you.

From: Memmott, Justin (EPW) [mailto:Justin_Memmott@epw.senate.gov]
Sent: Friday, October 19, 2018 3:22 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: Barrasso Praises EPA's Withdrawal of Obama Administration's Midnight Uranium Rule

fyi

From: Danylak, Mike (EPW)
Sent: Friday, October 19, 2018 1:59 PM
To: Danylak, Mike (EPW) <Mike_Danylak@epw.senate.gov>
Subject: Barrasso Praises EPA's Withdrawal of Obama Administration's Midnight Uranium Rule

For Immediate Release:
October 19, 2018

Contact: Mike Danylak ~202.224.1049
Mike_Danylak@EPW.Senate.Gov

Barrasso Praises EPA's Withdrawal of Obama Administration's Midnight Uranium Rule

WASHINGTON, D.C. — Today, U.S. Senator John Barrasso (R-WY), chairman of the Senate Committee on Environment and Public Works (EPW), released the following statement on the Environmental Protection Agency's (EPA) withdrawal of the agency's unjustified ground water monitoring rule for in situ uranium recovery (ISR). The Nuclear Regulatory Commission (NRC), the primary regulator of ISR activities, already requires ISR operators to conduct ground water monitoring through license conditions.

"Today's announcement is the right decision," **said Barrasso**. "The Nuclear Regulatory Commission – our nation's principal nuclear regulator – has said there is no health or safety justification for EPA's midnight rule. The NRC has regulated in situ uranium recovery for nearly 40 years. The agency has never found an instance of ground water contamination that would be addressed by this rule.

"I'm glad the Environmental Protection Agency has acknowledged this reality. I applaud it for withdrawing this punishing and unnecessary regulation on America's uranium producers."

Background Information:

The EPW Committee has jurisdiction over EPA and the NRC.

On Jan. 26, 2015, the EPA issued a proposed rule requiring, among other things, that uranium recovery operators conduct up to 30 years of ground water monitoring following ISR production.

On Oct. 5, 2016, the EPA sent its draft final rule to the Office of Management and Budget (OMB) for review.

On Oct. 20, 2016, Barrasso and Sens. John Cornyn (R-TX) and Deb Fischer (R-NE) sent a letter to OMB Director Shaun Donovan calling on the OMB to direct EPA to withdraw the rule. The letter also questioned the EPA's cost-benefit analysis and asked OMB to conduct its own cost-benefit analysis prior to taking any further action on the rule.

On Dec. 1, 2016, Barrasso and Sens. Capito (R-WV) and Inhofe (R-OK) sent a letter to the Howard Shelanski, administrator of the Office of Information and Regulatory Affairs at OMB. The senators explained that if EPA finalized its proposed rule, the rule would effectively end ISR production in the United States.

On Jan. 4, 2017, the EPA decided not to finalize its rule. Barrasso praised EPA's decision.

On Jan. 19, 2017, the day before the Obama administration left office, the EPA proposed a revised ISR rule for comment.

On Dec. 14, 2017, Barrasso sent a letter to EPA Administrator Scott Pruitt calling on the agency to withdraw the rule. In the letter, Barrasso explained that he recently learned that the NRC has had substantive and jurisdictional concerns with EPA's proposals since the inception of EPA's rulemaking. Barrasso wrote that he shares NRC's concerns and called on EPA to withdraw the rule and work with the NRC to clarify the agencies' respective jurisdiction over ISR activities.

Barrasso discussed this rule with Administrator Pruitt at an EPW oversight hearing on Jan. 30, 2018 and Acting Administrator Andrew Wheeler at an EPW oversight hearing on Aug. 1, 2018.

###

http://epw.senate.gov
Twitter | YouTube

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/11/2018 6:03:23 PM
To: Brent Fewell [brent.fewell@earthandwatergroup.com]
CC: Lyons, Troy [lyons.troy@epa.gov]
Subject: RE: Hill Rollout

I really need more details than this.

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Thursday, October 11, 2018 1:13 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Hill Rollout

Still coming together. Discussed previously with AW at dinner with Graham et al and he was interested. Will promote a number of legis efforts, Goof Sam (Gardner), LWCF (Burr). More details to follow. Want to at least identify tune in day that AW has a window, in event he wants to join.

Get Outlook for iOS

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 12:38 PM
To: Brent Fewell
Subject: RE: Hill Rollout

I don't have any information on this.

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Thursday, October 11, 2018 12:36 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Hill Rollout

Want to see if Wheeler is available - L Graham is lead

Get Outlook for iOS

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Thursday, October 11, 2018 12:34 PM
To: Brent Fewell
Cc: Jeff Kupfer
Subject: RE: Hill Rollout

I'm sorry?

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Thursday, October 11, 2018 12:12 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>

Cc: Jeff Kupfer <Ex. 6>
Subject: Hill Rollout

You got a couple minutes to discuss Hill rollout next Thursday

Get Outlook for iOS

From: Jackson, Ryan <jackson.ryan@epa.gov>
Sent: Wednesday, September 12, 2018 12:01 PM
To: Brent Fewell; Molina, Michael
Subject: RE: House Dinner - Sep. 26

We'll know by Thursday afternoon.

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Wednesday, September 12, 2018 10:06 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: House Dinner - Sep. 26

I have a list of invitees for the Sep. 26 dinner- invitations will be going out today. Want to make sure Andrew is still available that evening. Time to chat?

Brent

Brent Fewell, Esq. | Earth & Water Law Group
1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004
(202) 280-6362 (o) | (202) 664-9297 (c) | www.earthandwatergroup.com

LinkedIn

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Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/4/2018 8:32:16 PM
To: Gadhia, Ami [agadhia@aap.org]
CC: Willis, Sharnett [Willis.Sharnett@epa.gov]
Subject: RE: Meeting - can we move it to 10/12?
Attachments: chpac-agenda-october-2018.pdf

I'm sorry Friday October 12 is not convenient for attendees within EPA I would like to invite. We will need to move to the next week possibly October 18.

However, I would imagine that you or your organization would rather like to attend the FACA session hosted by our Children's Health Office being held Oct 11-12 here in Washington since you have not met with our children's health office for the past 2 years. The following is a link to information about it and attached is the itinerary to date. In fact, I'm surprised you and your organization would not already know Dr. Michael Firestone, the acting director of our children's health office. He has been the senior scientist for the office for the past 18 years having worked at EPA for 35 years.

https://www.epa.gov/children/childrens-health-protection-advisory-committee-chpac.

Thanks,

Ryan.

From: Gadhia, Ami [mailto:agadhia@aap.org]
Sent: Thursday, October 4, 2018 12:28 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Meeting - can we move it to 10/12?

Ryan,

Could we move our meeting from 10/11 at 2pm to any time on Friday, 10/12? One of the attendees has chemotherapy on the 11th and is unavailable all day.

Thanks,

Ami

Ami V. Gadhia
Director, Federal Advocacy and Regulatory Affairs
American Academy of Pediatrics
601 13th Street NW, Suite 400N
Washington, DC 20005
(202) 347-8600
@AmerAcadPeds

U.S. Environmental Protection Agency
CHILDREN'S HEALTH PROTECTION ADVISORY COMMITTEE
October 11–12, 2018
Holiday Inn Capitol
550 C Street SW, Washington, DC 20024
Nearest Metro Stop: L'Enfant Plaza Station

Ex. 6

Agenda

Confirmed Topics

- Discuss the process of reviewing the National Ambient Air Quality Standards (NAAQS) and current revisions
- Receive an overview of manganese in drinking water in Minnesota
- Learn about polychlorinated biphenyls (PCBs) in New York City Schools
- Receive updates on Per- and Polyfluoroalkyl Substances (PFAs)
- Hear about current and future work of the Children's Environmental Health and Disease Prevention Research Centers from NIEHS and EPA
- Learn about EPA's revised 3Ts Toolkit: Training, Testing, Taking Action
- Understand the EPA Chemical Safety for Sustainability Research Program

Thursday, October 11, 2018

10:30–11:00	**REGISTRATION**
11:00–11:10	**Welcome** Helena Wooden-Aguilar, Acting Deputy Chief of Staff U.S. Environmental Protection Agency
11:10–11:30	**Introductions and Review of the Agenda** Barbara Morrissey, CHPAC Chair
11:30–12:10	**Air Quality Standards Update** Clint Woods, Deputy Assistant Administrator, EPA Office of Air and Radiation Discussion
12:10–12:55	**Manganese: An Overlooked Drinking Water Contaminant?** Deanna Scher, Epidemiologist and Exposure Scientist, Minnesota Department of Health Discussion
12:55–1:15	**BREAK**
1:15–2:00	**PCBs in Schools: The New York City Experience** Maureen Little, Toxicologist, New York City Department of Health and Mental Hygiene Discussion

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2:00–3:00	**Per- and Polyfluoroalkyl Substances (PFAS) Updates** Peter Grevatt, Director, EPA Office of Ground Water and Drinking Water Discussion
3:00–3:20	**BREAK**
3:20–4:20	**NIEHS & EPA Children's Environmental Health Centers: The Translation of Research Into Strategies That Protect Our Children For A Lifetime** Linda Birnbaum, Director, NIH, National Institute of Environmental Health Sciences Q&A
4:20–4:45	**Public Comment**
4:45–5:00	**Wrap-Up**
5:00	**ADJOURN**

Friday, October 12, 2018

8:30–9:00	**REGISTRATION**
9:00–9:30	**Children's Environmental Health and Disease Prevention Research Centers: EPA** Jennifer Orme-Zavaleta, Principal Deputy Assistant Administrator for Science, EPA Office of Research and Development Q&A
9:30–10:45	**EPA's Revised 3Ts Toolkit: Training, Testing, Taking Action** Cathy Davis, Acting Chief, Protection Branch, EPA Office of Ground Water and Drinking Water Discussion
10:45–11:00	**BREAK**
11:00–12:00	**Chemical Safety for Sustainability Research Program: Support of TSCA and Children's Health** Jeff Frithsen, Acting National Program Director, EPA Chemical Safety for Sustainability Research Program Discussion
12:00–12:50	**Office of Children's Health Protection Update** Michael Firestone, Acting Director, EPA Office of Children's Health Protection Brenda Foos, Director, Regulatory Support and Science Policy Division Angela Hackel, Director Program Implementation and Coordination Division
12:50–1:00	**Wrap-Up** Barbara Morrissey, CHPAC Chair
1:00	**ADJOURN**

ED_002480_00079157-00002

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/1/2018 9:26:09 PM
To: lbergeson@lawbc.com
Subject: letters
Attachments: Duckworth.pdf; Durbin.pdf; Foster.pdf; Signed Response to Hon. Bruce Rauner, Governor of IL re Willowbrook -- OAR-18-001-1156.pdf; Signed Response to Hon. Peter Roskam -- OAR-18-001-1156.pdf; Signed Response to Hon. Daniel Lipinski re Willowbrook -- AL-18-001-1090.pdf

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency
(202) 564-6999

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Tammy Duckworth
United States Senate
Washington, D.C. 20510

Dear Senator Duckworth:

Thank you for your letter of September 21, 2018, about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

We are working with state and local air agencies and other EPA offices to take steps to address emissions of ethylene oxide, and are committed to continuing to provide information to the public throughout this process. Initial information, including links to information for the Willowbrook facility, is available on our ethylene oxide website at: https://www.epa.gov/hazardous-air-pollutants-ethylene-oxide.

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Over the last several months, EPA has provided ethylene oxide-related information from NATA and additional technical work to the community in and around Willowbrook. We know that this information has raised a number of questions and the Agency is working to develop additional technical and communication materials to help the community understand the potential risks.

ED_002480_00079246-00001

Based on preliminary NATA results earlier this year, EPA Region 5 contacted Sterigenics about its emissions. The company quickly and voluntarily took steps to reduce emissions using pollution control equipment. The pollution control improvements were completed on July 27, 2018. Sterigenics had estimated that the control equipment would reduce ethylene oxide emissions by over 90 percent. After the pollution controls began operating, a contractor hired by Sterigenics conducted stack testing of ethylene oxide emissions at the facility on September 20 and 21, 2018. U.S. EPA subject matter experts as well as experts from the Illinois EPA were on site to ensure that the tests followed EPA-approved protocols and would provide the right type of information to inform the community about resulting changes in emissions and concentrations of ethylene oxide. This testing will give the Agency the information it needs to provide the most accurate picture of the potential risks to the community, and actions the Agency may need to take.

We expect to receive the results of the testing in the next few days. Early indications from the post-control stack testing suggest that emissions have indeed been significantly reduced. Our experts will work with our colleagues at the Illinois EPA to review the test data as soon as we receive it to quality assure the results and make them available to the public as expeditiously as possible. EPA will use the quality-assured data from the stack tests to conduct additional technical assessments that will help us estimate potential risk for the community. U.S. EPA will work closely with Illinois EPA and Sterigenics as we conduct these assessments.

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EPA is also working to further investigate emissions at the other areas NATA indicated may be at higher risk due to ethylene oxide exposure. We will work with state and local agencies and across EPA offices on a two-pronged approach to address ethylene oxide emissions:

1. The Agency has already started to review and update Clean Air Act regulations for facilities that emit ethylene oxide. This work includes standards applicable to chemical plants that use ethylene oxide and, more importantly for Willowbrook, standards for sterilizers that use ethylene oxide.

2. We are gathering additional information on industrial emissions of ethylene oxide from particular facilities, including the Willowbrook facility. This information will help EPA as it evaluates opportunities to reduce ethylene oxide emissions as part of its regulations review. It also will help the Agency determine whether more immediate emission reduction steps are necessary in any particular locations.

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EPA will continue to coordinate closely with state and local air agencies, and across EPA offices, as we continue to work to address ethylene oxide and protect public health across the U.S. Please do not hesitate to contact me or Troy Lyons in the Office of Congressional and Intergovernmental Relations at lyons.troy@epa.gov or 202-564-5200 if you wish to discuss this issue further.

Sincerely,

William L. Wehrum
Assistant Administrator

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Richard Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your letter of September 21, 2018, about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

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Sincerely,

William L. Wehrum
Assistant Administrator

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Bill Foster
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Foster:

Thank you for your letter of September 21, 2018, about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

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Sincerely,

William L. Wehrum
Assistant Administrator

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Bruce Rauner
Governor of Illinois
Springfield, Illinois 62706

Dear Governor Rauner:

Thank you for your inquiry about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

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EPA will continue to coordinate closely with state and local air agencies, and across EPA offices, as we continue to work to address ethylene oxide and protect public health across the U.S. Please do not hesitate to contact me or Troy Lyons in the Office of Congressional and Intergovernmental Relations at lyons.troy@epa.gov or 202-564-5200 if you wish to discuss this issue further.

Sincerely,

William L. Wehrum
Assistant Administrator

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Daniel Lipinski
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Lipinski:

Thank you for your letter of September 21, 2018, about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

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Sincerely,

William L. Wehrum
Assistant Administrator

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

September 27, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Peter Roskam
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Roskam:

Thank you for your inquiry about ethylene oxide emissions from the Sterigenics facility in Willowbrook, Illinois. Please know that the Agency shares your concerns and is taking actions to provide certainty to the residents of Willowbrook. In the short term, the U.S. Environmental Protection Agency's (EPA) national Office of Air and Radiation will be collecting, analyzing, and communicating technical information, including recent stack testing results, risk and exposure modeling, and ambient monitoring, to provide updated, comprehensive information to the public. It is important to note that the air concentrations of ethylene oxide are not high enough to cause immediate harm to health for the people in and around Willowbrook.

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Sincerely,

William L. Wehrum
Assistant Administrator

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 10/3/2018 3:00:28 PM
To: Natasha Eby Ex. 6
CC: Shimmin, Kaitlyn [shimmin.kaitlyn@epa.gov]; Vizian, Donna [Vizian.Donna@epa.gov]
Subject: Re: Start Date + Access to GAO

Yes, and I'll work to have this ready for you when you arrive.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Oct 3, 2018, at 10:29 AM, Natasha Eby < Ex. 6 > wrote:

Hi Ryan,

I am emailing to confirm my start date of Monday, October 15. Is that still correct?

When I fill out the forms and paperwork, Ex. 6

Ex. 6

Thank you for your help! I look forward to joining the team.

Sincerely,

Natasha Y. Eby

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 9/8/2018 11:15:34 AM
To: Sam Wade [sam@nrwa.org]
Subject: Re: Quartz

I'll bet it was a great time.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Sep 7, 2018, at 8:51 PM, Sam Wade <sam@nrwa.org> wrote:

> Missing you in quartz mtn my friend.
>
> Hope all is well
>
> Sam wade
>
> Sent via the Samsung Galaxy S9+, an AT&T 4G LTE smartphone

Message

From: Caron, Christopher [Ccaron@steptoe.com]
Sent: 3/15/2019 10:24:13 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: Per Our Call: Language attached.....
Attachments: Enhanced Aquifer Recharge Backgrounder.pdf

I appreciate the update, Ryan.

I noticed that you mention the Aquifer Storage and Recovery (ASR) injection approach. Enhanced Aquifer Recharge (EAR) is a **non-injection** approach to recharging aquifers through passive groundwater filtration. That's why we put the language under the SSWR Account for three years. I am attaching a backgrounder on EAR for your review.

What we were trying to achieve with the language was development of a set of best practices for EAR and to get EPA to coordinate with USGS. Because EAR is a passive groundwater, non-injection approach, to aquifer recharge, we thought by leveraging USGS's extensive stream-gauging program, we could develop a good best practices approach through Kerr.

My sense is that Cincinnati isn't interested in this, though Kerr *already does* some research in this area and OAR mentions it specifically in Kerr briefs. (See: https://bit.ly/2F55x2N)

I am happy to provide more information or speak with whomever you think I should. We genuinely appreciate the assistance in resolving this.

Chris

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Friday, March 15, 2019 5:40 PM
To: Caron, Christopher
Subject: RE: Per Our Call: Language attached.....

So far I have simply been informed that Enhanced Aquifer Recharge is an eligible project activity under the DWSRF, and states have funded projects for this. Where an EAR effort involves injecting water into an aquifer, it is an UIC Class V Aquifer Storage and Recovery well. EPA has worked with Florida and Colorado to support ASR projects in those states. We have also worked with the Ground Water Protection Council and other stakeholder organizations to help drinking water utilities creatively enhance their water supply through EAR. I hope to get more background on this.

From: Caron, Christopher [mailto:Ccaron@steptoe.com]
Sent: Friday, March 15, 2019 12:24 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Per Our Call: Language attached.....

Ryan:

I just wanted to reach out and see if you heard anything back on this language?

I appreciate your willingness to help get an answer….

Chris

Christopher Caron
Director
Steptoe
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

From: Caron, Christopher
Sent: Wednesday, March 06, 2019 4:37 PM
To: jackson.ryan@epa.gov
Subject: Per Our Call: Language attached.....

Ryan:

Thanks for the time. Attached is the language.

We are trying to determine the status of what EPA is doing on this.

Again, thank you for the time.

Chris

Christopher Caron
Director
Steptoe
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, DC 20036

Direct: 202-429-1374
Cell: 202-430-1067

Enhanced Aquifer Recharge

Overview

The impact of the activities of man on the landscape, have altered the discharge profiles of most basins. Impervious surfaces deter infiltration. Channelization of storm water run-off sharpens the discharge curves. Surface water and ground water withdrawals reduce the baseflow contributions. In an era of increasing scarcity of water resources, these factors further limit the availability of usable water supplies.

Historically we have approached increasing water needs from the supply side: find new supplies. This has been through acquisition of additional water rights, inter-basin transfers and/or the use of surface water storage structures (Dams-Lakes). Conservation, at the consumer level and delivery system level, has also been used to increase available supplies in a somewhat more limited scope. However both the supply and conservation sides have practical and theoretical limits to effectives.

The only approach with realistic chance of addressing new resource availability is artificial aquifer recharge. This process offers the opportunity to alter the storm flow/base flow balance and provide additional resources. This is particularly important when seasonal or periodic demand increases.

To understand the concepts of enhanced aquifer recharge (EAR), we must first review the under-appreciated portion of the hydrologic cycle, which involves ground water: Infiltration and Discharge. See Figure 1. Most of us recognize the importance of rainfall, runoff and evaporation. Yet a significant portion of the rain also soaks into the ground and contributes to important water resources such as soil moisture, stream flow and aquifers.

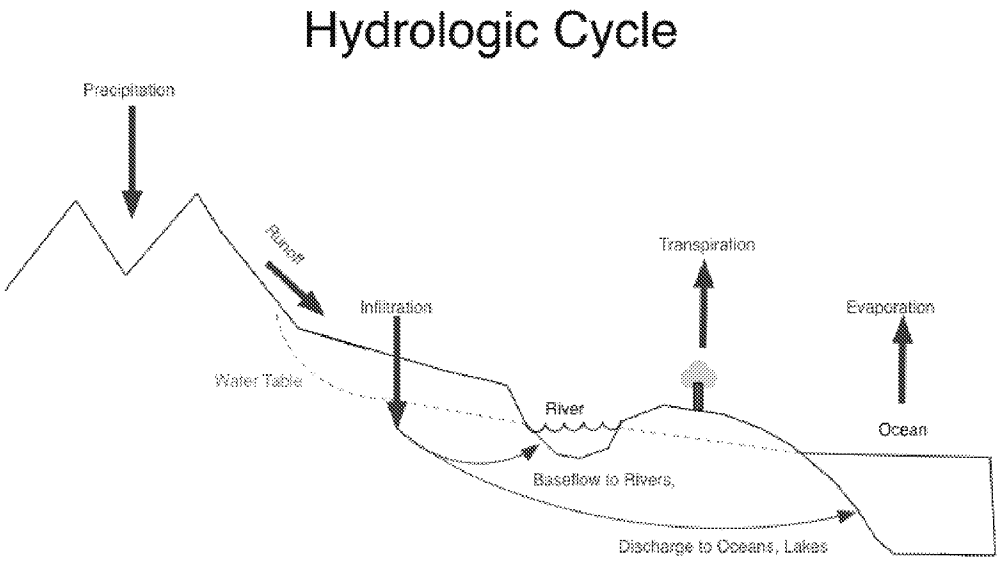

Figure 1: Hydrologic Cycle highlighting the infiltration, discharge components.

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Ground water in aquifers represents a long-term and stable source of water for human use and ecosystem function. Ground water discharging into riverbeds (baseflow) provides most of the visible flow in streams and rivers, for much of the time in many locations. See Figure 2.

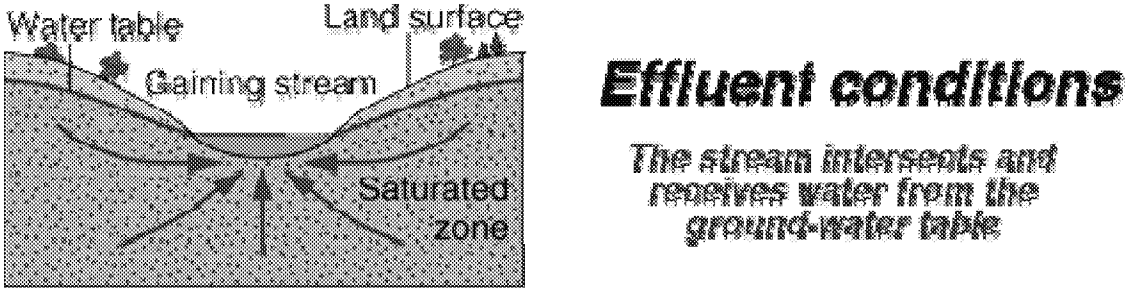

Figure 2: Ground water contributions to stream flow under baseflow conditions

An examination of the discharge curves (Hydrograph) of a hypothetical stream, illustrates the potential of EAR to create new available water resources. In Figure 3 we see the portion of stream flow, over time, that is the result of direct rainfall/runoff contribution, and the portion that is due to ground water discharging into the streambed.

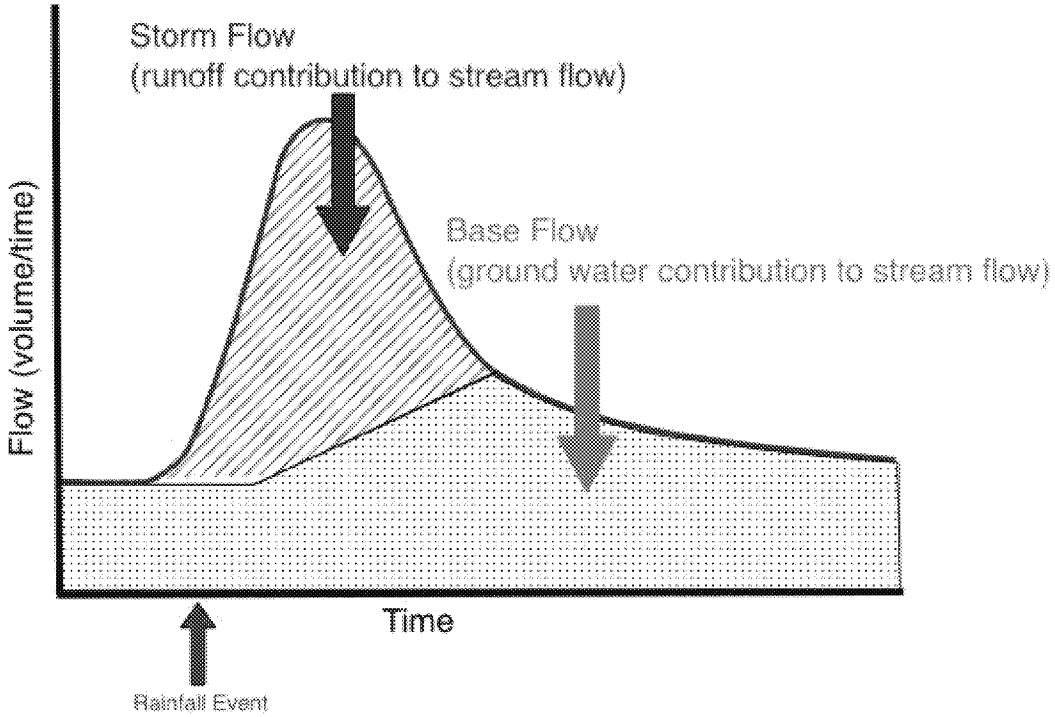

Figure 3: Hydrograph showing the relative contribution to stream flow from storm flow and base flow.

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In Figure 4 we see the same hypothetical system after implementation of EAR and note that the duration and later intensity of flow is enhanced in time beyond the rainfall event. This shows that surface water supplies during times of scarcity, such as dry summer months, can be enhanced. This increase in available surface water has important implication to drinking water supplies, ecosystem function and soil moisture. The storage of "excess" storm water in aquifers also represents new water resources for stakeholders that directly accesses ground water, such as rural water districts, municipalities and agriculture.

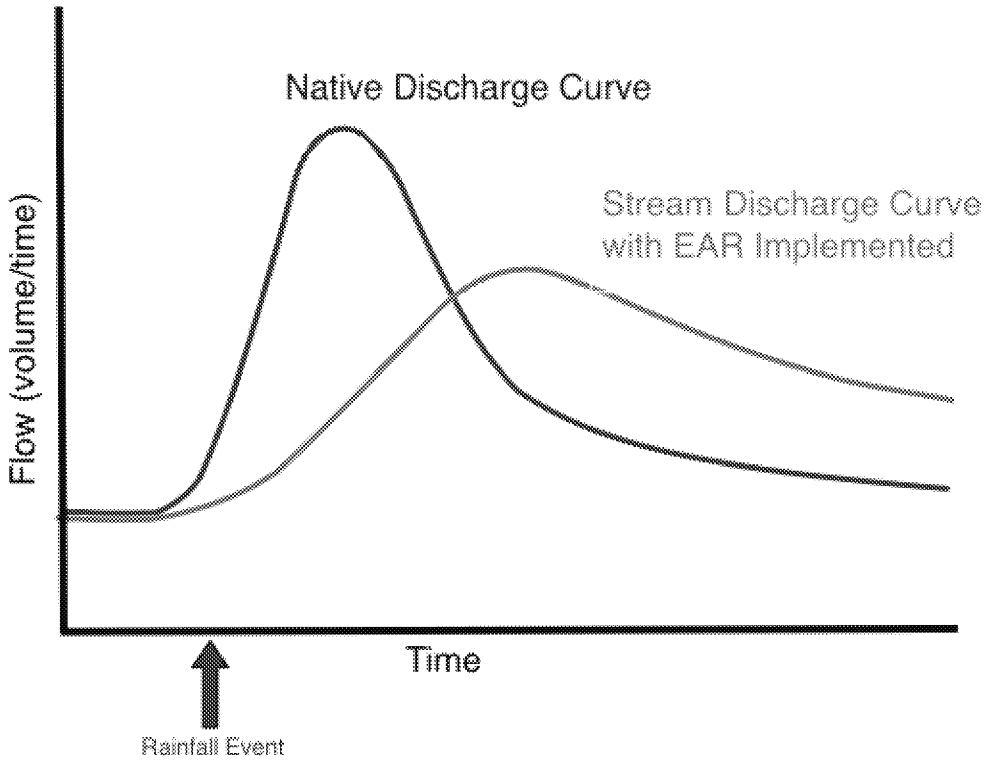

Figure 4: Comparison of discharge curves in native and EAR implemented system.

However research is needed to evaluate the potential of EAR to address water resource availability, and to implement EAR in a manner that is efficient, safe and equitable for stakeholders.

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Programmatic Justification

As ground water levels are continuing to decline across the nation from decades of chronic aquifer overuse, Enhanced Aquifer Recharge represents both a practical solution to the Nation's need for additional water resources, and as resource management approach to aquifer sustainability. This effort could be considered to address technical needs in the areas of Drought Resiliency, Green Infrastructure, Safe Drinking Water, Ecosystem Protection and Natural Resource Protection.

Augmenting drinking water supplies through recharge into aquifers represents a cost-effective way (as compared to addition reservoir storage or desalination) of increasing the availability of water, due to seasonal scarcity and/or climate driven uncertainty. Enhanced Aquifer Recharge also represents a key practice for the management and restoration of riparian and semi arid ecosystems and supports the US-EPA's mandate for Ecosystem Restoration.

Enhanced Aquifer Recharge is an increasingly recognized resource management approach. Dozens of research projects and operable recharge units can be found in the US today. EAR is also being applied in Australia, Israel, Netherlands, South Africa, and England. EAR may involve the use/injection of treated drinking water, treated wastewater or collected storm water. However most systems have focused on the use of surface water diversion during high flow periods.

The Nation's available drinking water supplies are increasing stressed due to a variety of factors including drought, increasing population-driven demand, seasonal rainfall variability, and shifting climatic patterns. In much of the West the availability of new allocation of surface waters is severely limited or non-existent. Ground water supplies in many areas are stressed by over use and decreasing natural recharge. While conservation and recovery are key resource management tools, Enhanced Aquifer Recharge represents the only significant approach to the creation of new water supplies. The conversion of storm-flow or municipal storm water, during times of excess supply, to base-flow and/or ground water based drinking water supplies for times of high demand, provides a resource management approach for the Nation's water needs.

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