Arkansas Regional Haze NO_X EGU SIP Revision Proposal: This proposed action would approve a proposed revision of the Arkansas Regional Haze State Implementation Plan (SIP) that was submitted to EPA for parallel processing on July 12, 2017. Arkansas' proposed SIP revision relies on the Cross State Air Pollution Rule (CSAPR) to satisfy the nitrogen oxide (NO_X) requirements for nine electric generating units in Arkansas. In conjunction with our proposed approval of the SIP revision, we are also proposing to withdraw the Federal Implementation Plan (FIP) emission limits for NO_X that currently apply to the nine affected units.

Region 6 Action Information Sheet

Action Title: Arkansas Regional Haze NO_X EGU SIP Revision Proposal

Purpose: To propose approval of a proposed revision of the Arkansas Regional Haze State Implementation Plan (SIP) that was submitted to EPA for parallel processing on July 12, 2017. Arkansas' proposed SIP revision relies on the Cross State Air Pollution Rule (CSAPR) to address the nitrogen oxide (NO_X) requirements for nine electric generating units (EGUs) in Arkansas: the Arkansas Electric Cooperative Corporation (AECC) Bailey Plant Unit 1; AECC McClellan Plant Unit 1; the American Electric Power/Southwestern Electric Power Company (AEP/SWEPCO) Flint Creek Plant Boiler No. 1; Entergy Arkansas, Inc. (Entergy) Lake Catherine Plant Unit 4; Entergy White Bluff Plant Units 1 and 2, and the Auxiliary Boiler; and Entergy Independence Plant Units 1 and 2. In conjunction with our proposed approval of the SIP revision, we are also proposing to withdraw federal implementation plan (FIP) emission limits for NO_X that currently apply to the nine aforementioned units.

Background: Arkansas submitted a Regional Haze SIP on September 9, 2008, to address the first regional haze implementation period. On March 12, 2012, EPA partially approved and partially disapproved the 2008 Arkansas Regional Haze SIP. On September 27, 2016, EPA published the Arkansas Regional Haze FIP, which addressed the disapproved portions of the 2008 Arkansas Regional Haze SIP. The Arkansas Regional Haze SIP revision proposal submitted on July 12, 2017, relies on the Cross State Air Pollution Rule (CSAPR) as an alternative to Best Available Reasonable Technology (BART) to address the NO_X BART requirements for Arkansas EGUs. The July 2017 Regional Haze SIP revision proposal also makes the determination that no additional NO_X emission controls for Arkansas sources, beyond Arkansas EGU participation in the CSAPR ozone season NO_X trading program, are required for achieving reasonable progress in Arkansas. The Arkansas Regional Haze SIP revision proposal would also replace the FIP's source specific NO_X emission limits that currently apply to the nine EGUs.

Key Issues/Internal Review: Region 6 program staff have worked closely with the Office of Regional Counsel, Office of General Counsel, and Office of Air Quality Planning and Standards staff in the development of this Federal Register notice. A key issue related to this proposed action is that Arkansas' July 2017 Regional Haze SIP revision is relying on CSAPR to satisfy the regional haze NO_X requirements for Arkansas EGUs. Our 2012 determination that CSAPR is better than BART and our November 10, 2016, proposed finding that CSAPR continues to be better than BART provide the basis for our proposed approval of Arkansas' July 2017 Regional Haze SIP revision. Therefore, we cannot finalize this proposed approval of the Arkansas SIP revision unless and until we finalize the November 10, 2016, proposed finding that CSAPR continues to be better than BART.

Stakeholder Involvement: Based on informal discussions with ADEQ staff, we are aware that Arkansas had discussions with the affected facilities and that they expressed their support of this SIP revision proposal and withdrawal of the corresponding parts of the FIP.

Legal Deadlines: There are no legal deadlines for signature on this Federal Register notice proposal. However, we find that it is prudent to move forward with this proposed action quickly, as the source-specific NO_X compliance deadlines currently required by the FIP are less than one year away.

Timing: It is recommended that the Federal Register notice proposing approval of the Arkansas Regional Haze SIP revision and withdrawal of the corresponding parts of the FIP be signed as expeditiously as possible.

To: Stenger, Wren[stenger.wren@epa.gov]; Price, Lisa[Price.Lisa@epa.gov]
From: Donaldson, Guy
Sent: Mon 6/12/2017 5:51:01 PM
Subject: FW: AIR POLLUTION: Settlement talks in Ark. haze case going nowhere — greens -- Monday, June 12, 2017 -- www.eenews.net

From: Kordzi, Joe
Sent: Monday, June 12, 2017 12:46 PM
To: Medina, Dayana <Medina.Dayana@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Nann, Barbara <nann.barbara@epa.gov>
Cc: Donaldson, Guy <Donaldson.Guy@epa.gov>; Todd, Robert <Todd.Robert@epa.gov>
Subject: AIR POLLUTION: Settlement talks in Ark. haze case going nowhere — greens -- Monday, June 12, 2017 -- www.eenews.net

https://www.eenews.net/greenwire/2017/06/12/stories/1060055902:

AIR POLLUTION

Settlement talks in Ark. haze case going nowhere — greens

Sean Reilly, E&E News reporter

Published: Monday, June 12, 2017

Environmentalists asked a federal appeals court to lift a freeze on proceedings in an Arkansas haze case regarding emissions from Entergy Corp. coal-fired power plants like the Independence plant near Newark, Ark. Photolitherland/Wikipedia

Settlement talks to end lawsuits over an Arkansas haze reduction plan are a sham, according to environmental groups that want a federal appeals court to lift a 3-month-old stay and let proceedings resume.

"There has not been a good faith effort to resolve the issues in dispute, and, by all appearances, there is no intention of seeking to come to the table," lawyers for the National Parks Conservation Association and the Sierra Club wrote in a Friday status report filed with the 8th U.S. Circuit Court of Appeals.

Since the court granted EPA's March motion to put the consolidated litigation into abeyance, they said, the only settlement meeting involving all parties has been a telephone conference call held last month. That call did not address either a proposed settlement laid out by the two environmental groups in March or "the substance of any alternative proposal," their status report said.

Instead, the Arkansas Department of Environmental Quality is making changes to parts of a state haze reduction blueprint that EPA under the Obama administration had previously rejected, according to a recent letter from the state agency attached to the

filing. In the meantime, Arkansas regulators want their federal counterparts to freeze compliance deadlines for a substitute EPA plan that would toughen pollution controls on coal-fired power plants owned by Entergy Corp., the letter says.

With a regional haze plan for Arkansas now more than a decade overdue, the probable result will be more litigation, the Sierra Club and the parks conservation association said in the status report, adding that the two groups "do not see a viable path toward settlement at this date." They instead asked the 8th Circuit to set a schedule for remaining briefs to be filed.

In a separate status report, EPA and the state, joined by Entergy and other industry challengers, offered a rosier view. Since the March stay, all sides in the litigation have joined in "a series of communications" related to a possible deal, they wrote in urging the court to leave the stay in place. "These communications have been productive, even though no agreement has been reached at this time," they added.

EPA's regional haze program, dating back to 1999 in its current form, aims to return views in 156 national parks and wilderness areas to natural conditions by 2064.

Following its partial rejection of the state plan, EPA published its alternative last August with a forecast that it would eventually cut power plant emissions of sulfur dioxide and nitrogen oxides by 68,500 tons and 15,100 tons, respectively.

Entergy, however, pegs the projected price tag of retooling generating units at two coal-fired power plants at $2.2 billion. Backing the company's position is state Attorney General Leslie Rutledge (R), who has argued that EPA's approach could imperil grid reliability.

The standoff is one in a series around the country triggered by the Obama administration's handling of the haze program. Among the critics is current EPA Administrator Scott Pruitt. As Oklahoma's Republican attorney general, Pruitt spent three years in an unsuccessful court challenge to a federal haze plan for his state. Since taking charge at EPA in February, Pruitt has sought or gone along with delay proceedings in several other haze-reduction cases.

Last month, EPA, citing the possibility of an administrative settlement, successfully asked the 10th U.S. Circuit Court of Appeals for a 60-day extension in the briefing schedule in litigation over a Utah haze reduction plan (*Greenwire*, May 24). After the same court granted a stay in a separate Wyoming case, environmental groups are seeking permission to pursue their challenge separately (*Greenwire*, June 5).

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Carper roundtable to showcase job-generating regulations

E&E Daily: Monday, June 5, 2017

To: Rhea, William[Rhea.William@epa.gov]; Price, Lisa[Price.Lisa@epa.gov]
Cc: Stenger, Wren[stenger.wren@epa.gov]
From: Donaldson, Guy
Sent: Mon 8/21/2017 4:31:40 PM
Subject: Action Information sheet for Air
Arkansas RH NOx SIP revision_Proposal_Action Information Sheet.docx

William we are pushing the Arkansas Minor NSR threshold out another week because of delays in ORC.

Region 6 Action Information Sheet

Action Title: Arkansas Regional Haze NO_X EGU SIP Revision Proposal

Purpose: To propose approval of a proposed revision of the Arkansas Regional Haze State Implementation Plan (SIP) that was submitted to EPA for parallel processing on July 12, 2017. Arkansas' proposed SIP revision relies on the Cross State Air Pollution Rule (CSAPR) to address the nitrogen oxide (NO_X) requirements for nine electric generating units in Arkanas: the Arkansas Electric Cooperative Corporation (AECC) Bailey Plant Unit 1; AECC McClellan Plant Unit 1; the American Electric Power/Southwestern Electric Power Company (AEP/SWEPCO) Flint Creek Plant Boiler No. 1; Entergy Arkansas, Inc. (Entergy) Lake Catherine Plant Unit 4; Entergy White Bluff Plant Units 1 and 2, and the Auxiliary Boiler; and Entergy Independence Plant Units 1 and 2. In conjunction with our proposed approval of the SIP revision, we are also proposing to withdraw federal implementation plan (FIP) emission limits for NO_X that currently apply to the nine aforementioned units.

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Legal Deadlines: There are no legal deadlines for signature on this Federal Register notice proposal. However, we find that it is prudent to move forward with this proposed action quickly, as the source-specific NO_X compliance deadlines currently required by the FIP are less than one year away.

Timing: It is recommended that the Federal Register notice proposing approval of the Arkansas Regional Haze SIP revision and withdrawal of the corresponding parts of the FIP be signed as expeditiously as possible.

Region 6 Contact: Dayana Medina, 214-665-7241 / Guy Donaldson, 214-665-7242

To: Medina, Dayana[Medina.Dayana@epa.gov]; Feldman, Michael[Feldman.Michael@epa.gov]; Nann, Barbara[nann.barbara@epa.gov]
Cc: Donaldson, Guy[Donaldson.Guy@epa.gov]; Todd, Robert[Todd.Robert@epa.gov]
From: Kordzi, Joe
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https://www.eenews.net/greenwire/2017/06/12/stories/1060055902:

AIR POLLUTION

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Sean Reilly, E&E News reporter

Published: Monday, June 12, 2017

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With a regional haze plan for Arkansas now more than a decade overdue, the probable result will be more litigation, the Sierra Club and the parks conservation association said in the status report, adding that the two groups "do not see a viable path toward settlement at this date." They instead asked the 8th Circuit to set a schedule for remaining briefs to be filed.

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The standoff is one in a series around the country triggered by the Obama administration's handling of the haze program. Among the critics is current EPA Administrator Scott Pruitt. As Oklahoma's Republican attorney general, Pruitt spent three years in an unsuccessful court challenge to a federal haze plan for his state. Since taking charge at EPA in February, Pruitt has sought or gone along with delay proceedings in several other haze-reduction cases.

Last month, EPA, citing the possibility of an administrative settlement, successfully asked the 10th U.S. Circuit Court of Appeals for a 60-day extension in the briefing schedule in litigation over a Utah haze reduction plan (*Greenwire*, May 24). After the same court granted a stay in a separate Wyoming case, environmental groups are seeking permission to pursue their challenge separately (*Greenwire*, June 5).

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Greenwire: Monday, June 12, 2017

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3 industry reps laud law's job-creation perks

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Greens want to move ahead with Wyo. regional haze suit

Greenwire: Monday, June 5, 2017

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Carper roundtable to showcase job-generating regulations

E&E Daily: Monday, June 5, 2017

To: Medina, Dayana[Medina.Dayana@epa.gov]
Cc: Deese, William[deese.william@epa.gov]; Shar, Alan[shar.alan@epa.gov]; Feldman, Michael[Feldman.Michael@epa.gov]; Young, Carl[young.carl@epa.gov]
From: Deese, William
Sent: Sat 9/9/2017 10:56:11 PM
Subject: Dayana, ignore the message I sent you late Friday--this message contains a revised July 5, 2017 submittal which is currently in FDMS to be posted to Regulations.gov Monday morning
AR020-0248y EPA-R06-OAR-2015-0189-DRAFT-0248.pdf
AR020-0249y EPA-R06-OAR-2015-0189-DRAFT-0249.xlsx
AR020-0250y EPA-R06-OAR-2015-0189-DRAFT-0250.pdf

Dayana, ignore the message I sent you late Friday--this message contains a revised July 5, 2017 submittal which is currently in FDMS to be posted to Regulations.gov Monday morning

The last two files are the same files you sent me Friday – I did not edit either one.

I was in a hurry and it was late when I sent you the message late Friday – I did not feel comfortable Friday night with the size (19 MB) and bookmarks in the July 5, 2017 state submittal file.

I have replaced the 147 page October 26, 2016 Federal Register (Adobe pages 37 to 183) in the submittal (I OCR'd-13.3 MB) with a copy saved

from EPA Headquarters docket EPA–HQ–OAR–2015–0500 (already OCR'd -1.1 MB)

You may not have seen the bookmarks in the July 5, 2017 submittal file you sent me. The bookmark panel will open when you click bookmark icon .

The bookmarks were apparently used in drafting the submittal. I have edited the bookmarks as best as I could figure out and to be consistent with the way I normally bookmark state submittals.

Please check the July 5, 2017 file and the other two files and the titles below and let me know via e-mail by 10:00 Monday morning if you find errors or

want anything changed (especially bookmark typos and links), no matter how trivial it may appear to be. Sometimes I don't get to the office until about 10:30.

I can not change anything in a document after I post the document to Regulations.gov.

Contact me Monday morning if you want to discuss anything -- leave a message on my desk or my voice mail and I will come to your desk when I get here.

Bill, x7253

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EPA-R06-OAR-2015-0189

Supporting and Related Materials

Document List | Batch Options | Document Details | Optional Details | Attachments

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Document ID	Title	Status
EPA-R06-OAR-2015-0189-DRAFT-0247	AR020.247 Reserved for Proposed Rule-3 -- DO NOT POST	DoNotPost
EPA-R06-OAR-2015-0189-DRAFT-0248	AR020.0248 Arkansas Regional Haze SIP Revision Submittal on NOx for EGUs, submitted to EPA July 5, 2017 (AR-47). 217 pages 8.5 MB x99	Draft
EPA-R06-OAR-2015-0189-DRAFT-0249	AR020.0249 IMPROVE Monitor Data- Nitrate Percentage Extinction at Caney Creek and Upper Buffalo	Draft
EPA-R06-OAR-2015-0189-DRAFT-0250	AR020.0250 CSAPR Better than BART Proposed Rulemaking, dated November 10, 2016	Draft

**********end**********

To: Feldman, Michael[Feldman.Michael@epa.gov]
From: Medina, Dayana
Sent: Tue 8/15/2017 2:19:06 PM
Subject: Action Information Sheet
Arkansas RH NOx SIP revision_Proposal_Action Information Sheet.docx
Arkansas RH Narrow FIP Revision Proposal_Action Information Sheet.docx
Arkansas RH NOx SIP revision_Proposal_blurb.docx

Michael,

Here is the Action Information Sheet for the FRN proposal for approval of the AR RH NOx SIP revision, and also the proposed extension of the FIP NOX compliance dates. I also attached an example burb.

Dayana Medina

U.S. Environmental Protection Agency, Region 6

Multimedia Division

State Implementation Section A (6MM-AA)

214-665-7241

Region 6 Action Information Sheet

Action Title: Arkansas Regional Haze Narrow FIP Revision Proposal.

Purpose: To propose a revision of the Arkansas Regional Haze Federal Implementation Plan (FIP) that was published in the Federal Register on September 27, 2016. The specific portions of the Arkansas Regional Haze FIP that EPA is proposing to revise are the compliance dates for the nitrogen oxide (NO_X) emission limits for the Entergy White Bluff Plant (White Bluff) Units 1 and 2, the Entergy Independence Plant (Independence) Units 1 and 2, and the American Electric Power (AEP) Flint Creek Unit 1. EPA is proposing to extend these NO_X compliance deadlines by 21 months as a result of our reconsideration process and our 90 day stay of the effectiveness of the compliance dates under Clean Air Act (CAA) section 307(d)(7)(B).

Background: In a letter dated April 14, 2017, EPA announced the convening of a proceeding for reconsideration under CAA section 307(d)(7)(B) for the 18-month compliance dates for the NO_X emission limits for Flint Creek Unit 1, White Bluff Units 1 and 2, and Independence Units 1 and 2. EPA also published a notice in the Federal Register on April 25, 2017, administratively staying the effectiveness of the 18-month NO_X compliance dates in the FIP for a period of 90 days. After carefully reviewing and considering the petitions for reconsideration submitted by the State of Arkansas, Entergy, the Arkansas Electric Cooperative Corporation (AECC), and the Energy and Environmental Alliance of Arkansas (EEAA), we have determined that the petitions raise certain arguments related to the 18-month NO_X compliance dates that have merit, provide site-specific information regarding the infeasibility of an 18-month compliance date, and warrant proposing a revision to the FIP with regard to the 18-month NO_X compliance deadlines. EPA is proposing to extend the NO_X compliance deadlines for the 5 affected units by a period of 21 months as part of the reconsideration process and also to account for the period of the stay of the effectiveness of the NO_X compliance deadlines.

Key Issues/Internal Review: Region 6 program staff have worked closely with the Office of Regional Counsel and the Office of General Counsel in the development of this Federal Register notice.

Stakeholder Involvement: The FIP's 18-month NO_X compliance dates for the five units is an issue that was raised by the State and the owners of the affected sources in their petitions seeking reconsideration and stay of the FIP. After carefully considering the petitions, we find that it is appropriate to propose to extend the compliance dates, as requested by the petitioners. We also remain committed to work with the State on a SIP revision that would replace some or all elements of the FIP. However, the impending 18-month (i.e. April 27, 2018) NO_X compliance deadlines required by the FIP for Flint Creek, White Bluff, and Independence, compel us to propose a revision of the FIP at this time so as to provide the owners of the units with regulatory certainty regarding their compliance deadlines.

Legal Deadlines: There are no legal deadlines for signature on the Federal Register notice proposal. However, we find that it is prudent to move forward with this proposed FIP revision quickly so as to provide the owners of the units with regulatory certainty regarding their compliance deadlines.

Timing: It is recommended that the Federal Register notice and associated letter be signed soon.

Region 6 Contact: Dayana Medina, 214-665-7241 / Guy Donaldson, 214-665-7242

Region 6 Action Information Sheet

Action Title: Arkansas Regional Haze NO_X EGU SIP Revision Proposal

Purpose: To propose approval of a proposed revision of the Arkansas Regional Haze State Implementation Plan (SIP) that was submitted to EPA for parallel processing on July 12, 2017. Arkansas' proposed SIP revision relies on the Cross State Air Pollution Rule (CSAPR) to address the nitrogen oxide (NO_X) requirements for the Arkansas Electric Cooperative Corporation (AECC) Bailey Plant Unit 1; AECC McClellan Plant Unit 1; the American Electric Power/Southwestern Electric Power Company (AEP/SWEPCO) Flint Creek Plant Boiler No. 1; Entergy Arkansas, Inc. (Entergy) Lake Catherine Plant Unit 4; Entergy White Bluff Plant Units 1 and 2, and the Auxiliary Boiler; and Entergy Independence Plant Units 1 and 2. In conjunction with our proposed approval of the SIP revision, we are also proposing to withdraw federal implementation plan (FIP) emission limits for NO_X that currently apply to the nine aforementioned units.

Background: Arkansas submitted a Regional Haze SIP on September 9, 2008, to address the first regional haze implementation period. On March 12, 2012, EPA partially approved and partially disapproved the 2008 Arkansas Regional Haze SIP. On September 27, 2016, EPA published the Arkansas Regional Haze FIP, which addressed the disapproved portions of the 2008 Arkansas Regional Haze SIP. The Arkansas Regional Haze SIP revision proposal submitted on July 12, 2017, relies on the Cross State Air Pollution Rule (CSAPR) as an alternative to BART to address the NO_X BART requirements for Arkansas EGUs. The July 2017 Regional Haze SIP revision proposal also makes the determination that no additional NO_X emission controls for Arkansas sources, beyond Arkansas EGU participation in the CSAPR ozone season NO_X trading program, are required for achieving reasonable progress in Arkansas. The Arkansas Regional Haze SIP revision proposal would also replace the FIP's source specific NO_X emission limits that currently apply to the nine EGUs.

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Stakeholder Involvement: Based on informal discussions with ADEQ staff, we are aware that Arkansas had discussions with the affected facilities and that they expressed their support of this SIP revision proposal and withdrawal of the corresponding parts of the FIP.

Legal Deadlines: There are no legal deadlines for signature on this Federal Register notice proposal. However, we find that it is prudent to move forward with this proposed action quickly, as the source-specific NO_X compliance deadlines currently required by the FIP are less than one year away.

Timing: It is recommended that the Federal Register notice proposing approval of the Arkansas Regional Haze SIP revision and withdrawal of the corresponding parts of the FIP be signed as expeditiously as possible.

Region 6 Contact: Dayana Medina, 214-665-7241 / Guy Donaldson, 214-665-7242

To: Medina, Dayana[Medina.Dayana@epa.gov]
Cc: Feldman, Michael[Feldman.Michael@epa.gov]; Shar, Alan[shar.alan@epa.gov]; Deese, William[deese.william@epa.gov]
From: Deese, William
Sent: Mon 9/25/2017 5:07:50 PM
Subject: Should these comments be posted to Regulations.gov now or should I wait?
AR020-0251 2017-09-21 AECC Comments RH FIP NOx Comp Extension.pdf
AR020-0252 Entergy Comments NOx Extension 2017_09_22.pdf
AR020-0253 Comments on extension of NOx deadline in FIP 9-22-2017.pdf

Should these comments be posted to Regulations.gov

This is a list of the rest of the attachments to AR020-0253 – do you need to look at them before I post to AR020-0253 to Regulations.gov?

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- Comment Period Reopened-1
- Final Rule-1
- Final Rule-2
- Proposed Rule-1
- Proposed Rule-2
  - EPA-R06-OAR-2015-0189-0241 (3)
    - Draft (3)
      - EPA-R06-OAR-2015-0189-DRAFT-0251
      - EPA-R06-OAR-2015-0189-DRAFT-0252
      - EPA-R06-OAR-2015-0189-DRAFT-0253
  - Supporting and Related Materials (6)
- Proposed Rule-3
  - EPA-R06-OAR-2015-0189-0247
  - Supporting and Related Materials (4)

Last Refreshed:09/25/2017 11:30:48 AM

EPA-R06-OAR-2015-0189-DRAFT-0253

Document Details | Optional Details | Submitt

Order	Title
1	Comments on extension of NOx deadline in FIP 9-22-20
2	Ex A_Flint LNB application
3	Ex B_AR PSC Dkt No. 12-008-U, Order No. 14 (July 10, 20
4	Ex C_SWEPCO News Release (July 10, 2013)
5	Ex D_SWEPCO Flint Creek Retrofit Webpage & Fact She
6	Ex E_Independence permit 0449-AOP-R11
7	Ex F_White Bluff permit 0263-AOP-R9
8	Ex G_White Bluff Emissions 2010-2017
9	Ex H_Stamper Report (EPA-R06-OAR-2015-0189-0171)
10	Ex I_Response to Comments EPA-HQ-OAR-2015-0500-0
11	Ex J_TSD Assessment on Non-EGU EPA-HQ-OAR-2015-0
12	Ex K_egu_nox_mitigation_strategies_tsd_0
13	Ex L_epa-hq-oar-2009-0491-0051
14	Ex M_MISO Fact Sheet
15	Ex N_Reliability and Outages

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Arkansas Electric
Cooperative Corporation

Your Touchstone Energy Cooperative

1 Cooperative Way
P.O. Box 194208
Little Rock, Arkansas 72219-4208
(501) 570-2200

September 22, 2017
Via Electronic Submission to www.regulations.gov

EPA Region 6
1445 Ross Avenue, Suite 700
Dallas, TX

RE: Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Revision of Federal Implementation Plan
Docket No. EPA-R06-OAR-2015-0189

To Whom It May Concern:

Arkansas Electric Cooperative Corporation (AECC) submits these com ments on the referenced proposed revisions to the regional hazefederal implementation plan (FIP) for the State of Arkansas by the U.S. Environmental Protection Agency (EPA) . We appreciate the opportunity to provide comments on the potential implications of the proposed plan on our operations and member-owners.

AECC agrees with EPA's proposal to extend the nitrogen oxide (NOx) compliance deadline listed in the FIP from April 27, 2018 to January 27, 2020. The proposed FIP issued in April 2015 included a three -year compliance deadline for NOx, but the final FIP issued in September 2016 included an 18 -month compliance deadline. This proposed action by EPA rectifies the fact that AECC and other stakeholders were not given an opportunity to comment on the inadequate and shortened compliance deadline.

Sincerely,

Stephen Cain

Stephen Cain
Manager – Environmental Compliance

Entergy Arkansas, Inc.

Comments

Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Revision of Federal Implementation Plan

EPA–R06–OAR–2015–0189

Submitted on:

September 22, 2017

To:

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 700
Dallas, Texas 75202-2733

Via:

http://www.regulations.gov
Docket ID No. EPA-R06-OAR-2015-0189

I. INTRODUCTION

On July 13, 2017, the U.S. Environmental Protection Agency ("EPA") published a proposed rule to revise the deadline in the Arkansas Regional Haze federal implementation plan ("FIP")[1] for certain units to comply with nitrogen oxide ("NOx") emission limits. 82 Fed. Reg. 32,284 (July 13, 2017) ("Proposed Rule"). Specifically, the Proposed Rule would extend, by 21 months, the NOx compliance deadline for five electric generating units ("EGUs"): Units 1 and 2 at the White Bluff Electric Power Plant ("White Bluff"), Units 1 and 2 at the Independence Steam Electric Station ("Independence"), and Flint Creek Unit 1.

Entergy Arkansas, Inc. ("EAI" or "Entergy") is an electric utility engaged primarily in the generation, purchase, transmission, distribution, and sale of electricity in portions of Arkansas. EAI provides electrical utility service to approximately 712,000 electric customers. EAI co-owns and operates White Bluff and Independence, which would directly benefit from the extension of the NOx compliance deadline. However, Arkansas has proposed a Regional Haze State Implementation Plan ("SIP") revision that, if approved by EPA after finalization, would prompt EPA to withdraw the NOx provisions of the Final FIP. EAI supports Arkansas' proposed SIP revision to address NOx emissions for regional haze purposes for White Bluff and Independence. Nonetheless, to the extent that the Final FIP's NOx emission limits remain in effect, EAI supports the proposed extension of the Final FIP's NOx compliance deadline.

II. BACKGROUND

In 2015, EPA published a proposed FIP that contained NOx emission limits for the White Bluff and Independence plants designed to satisfy the requirements of the Regional Haze Program. 80 Fed. Reg. 18,944 (Apr. 8, 2015) ("Proposed FIP"). The Proposed FIP would have

[1] 81 Fed. Reg. 66,332 (Sept. 27, 2016) ("Final FIP").

required compliance with these NOx emission limits within three years of the effective date of EPA's final action on the Proposed FIP. *Id.* at 19,002. EPA changed this deadline in the Final FIP, however, requiring compliance with the NOx limits within 18 months of the effective date of the rule, i.e. by April 27, 2018. 81 Fed. Reg. at 66,416. In response to petitions for reconsideration filed by Entergy and others,[2] which argued in part that EPA improperly shortened the NOx compliance deadlines in the Final FIP, the Proposed Rule would extend the compliance deadline by 21 months, to January 27, 2020.[3]

After the publication of the Proposed Rule, Arkansas proposed a Regional Haze SIP revision that would require compliance with the ozone season NOx trading program requirements of the Cross-State Air Pollution Rule ("CSAPR") as an alternative to the Final FIP's source-specific NOx emissions limits for EGUs, including the five EGUs covered by this Proposed Rule. Arkansas submitted this proposed revision to EPA for parallel processing on July 12, 2017. EPA has proposed to approve the revision, pending finalization by the state, and to withdraw the FIP emission limits for NOx for the EGUs covered by the SIP revision. 82 Fed. Reg. 42,627 (Sept. 11, 2017). EAI has submitted comments to the Arkansas Department of Air Quality ("ADEQ") supporting the proposed SIP revision and anticipates that Arkansas will finalize the SIP revision as proposed.

If EPA also finalizes its proposed approval of the SIP revision and withdrawal of the

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[2] Ark. Dep't of Envtl. Quality, *Pet. for Recons. and Req. for Administrative Stay* (Nov. 22, 2016), Docket ID No. EPA-R06-OAR-2015-0189-0242; Entergy Arkansas, Inc., *Administrative Pet. for Recons. and Req. for Stay of Entergy Arkansas Inc., et al.* (Nov. 23, 2016), Docket ID No. EPA-R06-OAR-2015-0189-0243; Arkansas Electric Cooperative Corporation, *Administrative Pet. for Recons. and Req. for Administrative Stay* (Nov. 23, 2016), Docket ID No. EPA-R06-OAR-2015-0189-0244; Energy and Environmental Alliance of Arkansas, *Administrative Pet. for Recons. and Req. for Administrative Stay* (Nov. 28, 2016); Docket ID No. EPA-R06-OAR-2015-0189-0245.

[3] Finalization of the Proposed Rule also would resolve one of the issues in ongoing litigation over the Arkansas Regional Haze FIP, which is being held in abeyance by the United States Court of Appeals for the Eighth Circuit until September 26, 2017. *See Arkansas v. EPA*, No. 16-4270 (8th Cir.).

FIP's source-specific NOx emission limits for the Arkansas EGUs, this rulemaking would be unnecessary. However, EPA has stated that it cannot finalize its proposed approval of the Arkansas SIP revision until it finalizes its separate proposed rulemaking finding that CSAPR still provides for greater reasonable progress than source-specific best available retrofit technology ("BART")[4] or otherwise makes a determination that participation in CSAPR remains a viable BART alternative.[5] Given all the events that must occur before the Final FIP's NOx emission limits could be withdrawn, the current NOx compliance deadline is of significant concern to EAI. Accordingly, Entergy supports the NOx compliance deadline extension in the Proposed Rule.

III. COMMENTS

The Proposed Rule is appropriate in light of EPA's failure to provide an opportunity to comment on the shorter deadline promulgated in the Final FIP, which was not a logical outgrowth of the Proposed FIP and which lacked a reasoned basis. The extension of the NOx compliance deadline will provide the necessary time for installation of low-NOx burners and separated overfire air ("LNB/SOFA"), which Entergy currently is installing on its units for compliance with CSAPR and to meet the NOx emission limits promulgated in the Final FIP.

A. The Deadline Extension Is Necessary for the Installation of NOx Controls

The Final FIP's 18-month deadline for installation of LNB/SOFA at White Bluff and Independence is infeasible, as it does not provide sufficient time to develop, plan, permit, install, tune, and test the equipment. As EPA acknowledged, the Agency failed to "take into consideration the companies' internal planning and prudence review procedures when [it]

[4] 81 Fed. Reg. 78,954 (Nov. 10, 2016).

[5] 82 Fed. Reg. at 42,629.

shortened the NOx compliance deadlines." 82 Fed. Reg. at 32,286. EPA also failed to account for other steps in the process that must occur. At Entergy, a project of this scope requires the company to develop a prevention of significant deterioration ("PSD") permit application and obtain a PSD permit, comply with the company's internal planning and prudence review procedures, complete a request for proposal ("RFP") process, select a vendor, procure equipment, schedule outages, install equipment, and then tune and test the equipment. Although Entergy has already made significant progress on these steps, the process for all four of its units cannot be completed by April 27, 2018.

Entergy began work to comply with the Final FIP's NOx requirements immediately upon its promulgation. The internal process that must be completed before the performance of any equipment work is robust. First, projects over $20 million, like the installation of LNB/SOFA, are subject to an internal company approval process that includes risk review and investment procedures. This process typically takes around two months and requires approval from several levels of Entergy management. Once the review process has been completed, Entergy can undertake project-specific planning. In this case, an engineer drafted project specifications based on the Final FIP requirements and design characteristics, a process that took five months. These specifications were included in the development, review, and approval of a non-bid justification, which took seven weeks. Once the vendor was selected, negotiation of the final contract took an additional seven weeks. Entergy completed this process in December of 2016. Simultaneous to this internal process, Entergy was required to prepare a PSD permit application for the

installation of LNB/SOFA at Independence.[6] Entergy submitted its permit application in December 2016 and received the final permit on May 16, 2017.

Once the permit was issued and the final contract was signed, the selected vendor began to design and fabricate the equipment, which takes approximately eight months. Outages must be scheduled for all four units, each lasting between six and seven weeks. Importantly, outages must be scheduled so as not to compromise reliability, as all four of Entergy's affected units are dispatched by the same regional transmission organization (the Midcontinent Interconnection System Operator ("MISO")). Once installation is complete, each unit must undergo four weeks of boiler tuning and two weeks of performance verification testing to demonstrate that the controls are achieving the anticipated NOx reductions. After this, Entergy must perform a final phase of fine-tuning and training. During the final phase, which lasts approximately five months, each unit will undergo a three-month procedure review during which the system description is re-written to include the new equipment and components, and the operating procedures are updated. The staff must then be trained on both the system description and the operating procedures, which typically takes a month. An additional month is needed to validate operating configurations to determine which combinations result in the best load profile. It would be imprudent not to complete the entire training and fine-tuning process prior to the compliance deadline.

Entergy has made significant progress on the LNB/SOFA projects, having already installed the equipment on White Bluff Unit 2. Entergy is now in the process of testing and tuning this equipment. However, despite its diligent work, Entergy cannot comply with the NOx emission limits by the April 27, 2018 deadline. The Proposed Rule would appropriately extend

[6] At the time the Final FIP was issued, Entergy already had obtained a PSD permit for the installation of LNB/SOFA at White Bluff.

the compliance deadline to account for the time spent on Entergy's internal planning and prudence review procedures, the need to obtain all required approvals, the coordination of outages to allow for installation while protecting reliability, the tuning process, and to address any unforeseen issues.

B. The Revisions Are Appropriate Because the Final Deadline Was Not a Logical Outgrowth of the Proposed Deadline.

Revision of the NOx compliance deadline is necessary to remedy EPA's procedural error in unexpectedly shortening the deadline in the Final FIP. The Clean Air Act and the Administrative Procedure Act require that a "proposed rule and its final rule . . . differ only insofar as the latter is a 'logical outgrowth' of the former." *Envtl. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005). An agency's final rule may not "pull a surprise switcheroo on regulated entities," *id.* at 996, and thus is only a logical outgrowth of its proposal "if interested parties should have anticipated that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period." *CSX Transp., Inc. v. Surface Transp. Bd.*, 584 F.3d 1076, 1079-80 (D.C. Cir. 2009) (citation omitted). The Final FIP's 18-month compliance deadline is not a logical outgrowth of the Proposed FIP.

EPA originally proposed a three-year NOx compliance deadline for White Bluff and Independence and did not indicate in the Proposed FIP that it was considering a shorter deadline. *See* 80 Fed. Reg. at 19,002. This stands in stark contrast to EPA's express solicitation of comments in the Proposed FIP regarding the compliance deadlines for other sources. *See, e.g.*, 80 Fed. Reg. at 18,985 (proposing a three-year compliance deadline, but soliciting comments on one to five years); *id.* at 18,988 (proposing a compliance deadline of three years, but soliciting comments "on the appropriateness" of this date). EPA's specific requests for feedback on the appropriate length of certain deadlines indicated that the Agency was not considering alternatives

to the other proposed deadlines for which it did not solicit comment. Accordingly, Entergy had no reason to anticipate that a change to the NOx compliance deadlines for White Bluff or Independence was under consideration. As a result, Entergy only stated in its comments that it was prepared to meet the proposed three-year deadline.[7] It lacked notice and had no opportunity to comment on its inability to comply with a shortened compliance deadline.

EPA's decision to shorten the compliance deadline for the NOx emission limits for White Bluff and Independence from a proposed three-year period to 18 months unexpectedly and unlawfully halved the time allotted for coming into compliance. EPA's Proposed Rule would rectify this error.

C. The 18-Month Deadline Is Arbitrary and Capricious.

The Proposed Rule is necessary to replace the arbitrary and capricious 18-month deadline, for which EPA provided no reasoned basis. EPA based its decision to reduce the allotted compliance time solely on environmental commenters' request for a shorter deadline, which relied on a 10-year-old vendor association report. *See* 82 Fed. Reg. at 66,378 (citing Comments of Earthjustice, National Parks Conservation Association, and Sierra Club at 25, Docket No. EPA-R06-OAR-2015-0189-0171 ("Sierra Club Comments")).

EPA's justification falls short for two reasons. First, EPA's reliance on comments as the basis for shortening the compliance deadline was improper. The environmental organizations actually requested a shorter compliance deadline only for White Bluff, not for Independence. *See id.* Accordingly, EPA's decision to shorten the compliance deadline for Independence was made sua sponte and not in response to information provided in public comments. But even if the environmental organizations had requested a shortened compliance deadline for both plants,

[7] EAI Arkansas FIP Comments, Docket No. EPA-R06-OAR-2015-0189-0166 at 13-14.

this would not have provided a valid basis for EPA's shortening of the compliance deadline. It is well-established that EPA "cannot bootstrap notice from a comment." *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 549 (D.C. Cir. 1983); *Am. Fed'n of Labor v. Donovan*, 757 F.2d 330, 340 (D.C. Cir. 1985).

Second, the environmental organizations' comments did not provide sufficient justification for shortening the comment period. Their comment relied on a "technical support document" prepared by a third party, which in turn relied entirely on facts in a vendor association report to justify a shorter compliance deadline. *See* Institute of Clean Air Companies, Typical Installation Timelines for NOx Emission Control Technologies on Industrial Sources, at 3-4 (Dec. 4, 2006) (cited in Victoria R. Stamper Technical Support Document to Comments of Conservation Organizations at 46 (Aug. 5, 2015) (attachment to Sierra Club Comments)). The vendor association report was not attached to Sierra Club's comments and is not part of the administrative record. Accordingly, the record contains no facts that would support a shortened compliance deadline.

Even if the report were included in the record, it does not account for any site-specific factors, such as permitting considerations, a company's internal project development and approval process, site characteristics, or reliability concerns associated with outages necessary for the installation of LNB/SOFA at multiple units. *See id.* To the contrary, the vendor association report explicitly acknowledged that deployment time may vary depending on the specific conditions of a given site. *Id.* The outdated, generic information about timing included in the environmental group comments does not provide a reasonable basis for shortening the deadline for these specific units. EPA did not attempt to explain how the shortened deadline is

reasonable for White Bluff and Independence in light of site-specific and company-specific considerations and Entergy was given no opportunity to provide such information to EPA.

The final deadline was even more arbitrary in light of the fact that the Agency typically provides five years for the installation of LNB/SOFA in regional haze FIPs. *See, e.g.*, Final Montana Regional Haze FIP, 77 Fed. Reg. at 57,875 (allowing five years where installation of additional controls was necessary); Final Wyoming Regional Haze FIP, 79 Fed. Reg. 5,032, 5,038-39 (Jan. 30, 2014) (same); Final North Dakota Regional Haze FIP, 77 Fed. Reg. 20,894, 20,907 (Apr. 6, 2012) (same). In this case, at the time of the Final Rule, Entergy had only acquired control equipment for one unit at White Bluff, and still had to procure equipment for the second White Bluff unit and both Independence units (and install the equipment on all four units) to comply with the requirements in the Final FIP. It is arbitrary and capricious to require such a short and unprecedented deadline where new controls must be designed, permitted, acquired, and installed.[8]

IV. CONCLUSION

Entergy appreciates the opportunity to comment on the Proposed Rule. Entergy supports EPA's proposal to extend the compliance dates for the NOx emission limits by 21 months to January 27, 2020. This extension is necessary to correct EPA's arbitrary and capricious deadline in the Final FIP, which was not a logical outgrowth of the original proposed deadline, and to ensure that Entergy will have sufficient time to complete installation, testing, and tuning of the NOx control technology at its units.

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[8] EPA's requirement that Entergy procure LNB/SOFA equipment for three units, and install it on four, is incongruent even within the Final FIP. EPA granted the same amount of time for AEP's Flint Creek plant to comply with the SO_2 emission limit, even though SO_2 control equipment *is installed and functioning already*, in light of the need to ensure the controls can meet the limit. 81 Fed. Reg. at 66,338, 66341-42.

Respectfully submitted,

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Assistant General Counsel – Environmental (Lead)
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September 22, 2017

Submitted via www.regulations.gov

Re: Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Visibility Transport Federal Implementation Plan; Revision of Federal Implementation Plan, Docket No. EPA–R06–OAR–2015–0189

Earthjustice, National Parks Conservation Association, and Sierra Club submit the following comments on the United States Environmental Protection Agency's ("EPA") proposed extension of the deadlines to comply with the nitrogen oxide ("NOx") emission limits in the federal implementation plan ("FIP") for regional haze for Arkansas, 82 Fed. Reg. 32,284 (July 13, 2017). In the final FIP, EPA required that Flint Creek Unit 1 meet a NOx emission limit based on the use of low-NOx burners and overfire air, and White Bluff Units 1 and 2 and Independence Units 1 and 2 meet NOx emission limits based on the use of low-NOx burners and separated overfire air. 81 Fed. Reg. 66,332, 66,338-39 (Sept. 27, 2016). Under the current FIP, each of the five units must comply with the NOx emission limits by April 27, 2018. 40 C.F.R. § 52.173(c)(7), (25). EPA proposes to extend the compliance deadline for all five units to January 27, 2020. We oppose EPA's proposal, which is unnecessary and unsupported.

EPA's proposal for Flint Creek is divorced from reality. The operator of Flint Creek has already received approval from the Arkansas Public Service Commission to install NOx controls and expects that the controls required by the FIP will be in service no later than April 2018. The notion that Flint Creek needs until 2020 to install and operate controls that will be operational next spring is absurd.

EPA's proposal for White Bluff and Independence is similarly arbitrary and capricious, as it ignores relevant facts. Entergy has already received permit approvals to install NOx at White Bluff and Independence, has informed the Arkansas Department of Environmental Quality ("ADEQ") that it intends to install the controls before April 2018, and may have in fact already installed the controls on at least one of its units, as evidenced by recent outage and emissions data.

Despite the absence of any need to extend the compliance deadlines, EPA advances the meritless claim that because the agency proposed a compliance deadline of 36 months, and finalized a deadline of 18 months, industry lacked adequate notice and an opportunity to comment. But EPA shortened the compliance deadline in response to comments demonstrating that utilities across the country have installed low-NOx burners in 18 months or less. It is black-letter law that agencies not only may, but must, alter a proposed rule based on evidence submitted in comments. The final rule required NOx emission limits based on the identical technology that was the basis of the limits in the proposal, and merely shortening the compliance timeframe is a logical outgrowth of the proposal.

EPA presents a grab-bag of technical justifications for the proposed extension, none of which has merit. EPA's assertion that the extension is necessary for Entergy to obtain a PSD permit is contradicted by Entergy having already received final permits authorizing the installation of NOx controls at both Independence and White Bluff. EPA speculates that the owners of White Bluff and Independence need more time to follow internal company planning procedures, yet offers no reason why they need more time than similarly situated utilities have needed to plan for similar projects, and fails to grapple with the fact that Entergy's permits indicate likely compliance before April 2018. EPA also contends that a vendor report on which the FIP may have relied is outdated, yet more recent vendor reports, on which EPA has relied, reach the same conclusion: low-NOx burners can be installed in as little as six months.

Finally, EPA makes vague references to the fact that more time is needed to coordinate outages to preserve reliability, particularly because four units are in the same regional transmission organization. EPA's speculation ignores that NOx controls may have already been installed at these units and that all of them have planned outages nearly every year which the grid operator is capable of accommodating. Moreover, the fact that four units are in the same regional transmission organization helps ensure reliability, because one organization can coordinate outages.

I. THERE IS NO RATIONAL BASIS FOR EXTENDING THE COMPLIANCE DEADLINE FOR FLINT CREEK, WHICH ANTICIPATES THAT LOW-NOX BURNERS WILL BE IN SERVICE IN APRIL 2018.

EPA's claim that the NOx compliance deadline for Flint Creek must be extended until 2020 has no basis in fact or law, given that Southwestern Electric Power Company's ("SWEPCO")[1] own website states that low-NOx burners will be placed in service in May 2018. Further, three months ago, SWEPCO informed ADEQ that it expects to begin construction in December 2017 and complete construction by April 2018.[2] EPA asserts that the comments on which the original compliance dates are based "did not take into account site- specific

[1] While SWEPCO and the Arkansas Electric Cooperative Corporation each own 50% of the Flint Creek power plant, SWEPCO operates and manages the plant.

[2] SWEPCO Application for Title V Permit Modification, dated June 8, 2017 ("SWEPCO Application"), Attached as Exhibit A.

considerations," 82 Fed. Reg. at 32,286, yet EPA lumps Flint Creek in with White Bluff and Independence and ignores SWEPCO's intention to comply by the current FIP deadline—suggesting the agency is not aware of the specific facts concerning Flint Creek.

Long before EPA ever proposed the Arkansas regional haze FIP, SWEPCO and the Arkansas Electric Cooperative Corporation ("AECC") were preparing to install and operate low-NOx burners at Flint Creek. Indeed, SWEPCO and AECC filed a petition with the Arkansas Public Service Commission in 2012 seeking a determination that installation of NOx controls at Flint Creek was in the public interest. In July 2013, the Arkansas Public Service Commission ruled that installation of low-NOx burners at Flint Creek was in the public interest. Arkansas Public Service Commission Docket No. 12-008-U, Order No. 14 at 3-4, 37 (July 10, 2013), Attached as Exhibit B; *see also* SWEPCO, News Release (July 10, 2013), *available at* https://www.swepco.com/info/news/viewRelease.aspx?releaseID=1424, Attached as Exhibit C. According to SWEPCO, the low-NOx burners are expected to be in service by May 2018. *See* SWEPCO, Flint Creek Retrofit Project, *available at* https://www.swepco.com/info/projects/FlintCreek/, Attached as Exhibit D; SWEPCO Application.

Inexplicably, the proposed rule does not contain a single mention of the fact that Flint Creek's low-NOx burners will soon be in service, suggesting that EPA is either unaware of basic facts on the ground, or believes that installation of controls is somehow irrelevant to setting the compliance deadlines for those controls. Regardless, there is no plausible justification for extending the compliance deadline one-and-a-half years beyond the date SWEPCO anticipates actually installing NOx controls. Indeed, there is no justification for extending Flint Creek's deadline for complying with the NOx limits at all. Given that SWEPCO has been planning to install these controls for at least five years, has publicly maintained that it expects to place low-NOx burners into service by May 2018, the current FIP deadline of April 27, 2018, 40 C.F.R. § 52.173(c)(7), is feasible for Flint Creek. EPA has provided no evidence that Flint Creek is unable to meet the current deadline in the FIP, and thus EPA's proposal is unsupported by the record and is arbitrary and capricious.

II. THERE IS NO RATIONAL BASIS FOR EXTENDING THE COMPLIANCE DEADLINE FOR WHITE BLUFF AND INDEPENDENCE, BECAUSE ENTERGY ANTICIPATES THAT LOW-NOX BURNERS WILL BE IN SERVICE BY THE CURRENT DEADLINE.

A. There is No Plausible Reason that the Owners of White Bluff and Independence Cannot Meet the Current FIP Deadline.

Similar to SWEPCO, Entergy has been planning to install low-NOx burners at Independence and White Bluff and is prepared to meet the FIP's April 2018 deadline. For Independence, Entergy received authorization from ADEQ to install these NOx controls in May

2017.[3] In Independence's Title V permit, ADEQ states that Entergy has provided information indicating that for Independence "Unit 1, construction is anticipated to commence in September 2017. For Unit 2, construction is anticipated to commence in November 2017."[4] Given the time frames needed to install these controls, Entergy can comply with the April 2018 deadline for Independence.

For White Bluff, Entergy received authorization from ADEQ to install NOx controls in September 2015,[5] *i.e.*, two years ago. The Title V permit for White Bluff states that if construction does not begin within 18 months (*i.e.,* March 2017), the construction authorization would expire.[6] Entergy does not appear to have objected to that provision and there is reason to believe that Entergy has already *completed* construction of these controls on at least one unit. Clean Air Markets data shows that White Bluff unit 2 had an outage in Spring 2017—consistent with Entergy's need to commence construction or lose authorization under its Title V permit—followed by a drop in NOx emissions.[7] This outage appears to have lasted approximately three months, which is consistent with estimates of the time needed to install NOx combustion controls, including SWEPCO's representation to ADEQ that it would complete construction on a similar timeframe. Based on the evidence regarding White Bluff and Independence, Entergy is capable of meeting the FIP's current deadline for both of its plants.

Against this backdrop, EPA presents a laundry list of purported reasons for granting an extension of the compliance deadlines for White Bluff and Independence, 82 Fed. Reg. at 32,286-87, but none of these justifications withstands scrutiny. First, EPA contends that the extension is necessary "to account for the PSD permitting process." *Id.* at 32,286. But on the same page, EPA notes that "Entergy stated in its petition that it has obtained the necessary PSD permit for installation of the NOX control equipment at White Bluff." *Id.* And, as noted above, Entergy has already obtained the requisite permits for Independence as well. Entergy does not need additional time to obtain permits for Independence and White Bluff when it has already obtained those permits. Thus, EPA's argument is flatly contradicted by the record.

Next, EPA contends that it is reasonable to allow Entergy and AECC additional time to follow internal planning procedures and prudence reviews specific to the companies. 82 Fed. Reg. at 32,286-87. This has no merit, for several reasons. Most importantly, Entergy already has received permits for these projects, and so any internal planning that was needed has long ago been completed. In addition, Entergy may have already completed construction at one unit, so the idea that further planning would be needed for that unit is absurd.

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[3] Independence Title V Permit No. 0449-AOP-R11, issued May 16, 2017 ("Independence 2017 Title V Permit"), Attached as Exhibit E.
[4] Independence 2017 Title V Permit at 5.
[5] White Bluff Title V Permit No. 0263-AOP-R9, issued Sept. 25, 2015 ("White Bluff 2015 Title V Permit"), Attached as Exhibit F.
[6] *Id.* at 59.
[7] Clean Air Markets Database NOx Emissions for White Bluff Unit 2, Attached as Exhibit G.

Moreover, even if Entergy were not prepared to meet the April 2018 deadline—which it plainly is—it is not reasonable for Entergy and AECC to be unable to meet deadlines, simply because of self-imposed internal planning procedures, when other, similarly situated companies have been able to meet the same deadline. Every utility needs to plan before installing pollution controls, and every regulated utility needs to plan to meet the prudence requirements of the applicable public utility commission.

Electric utilities around the country routinely install controls which are more expensive and more complicated than the low-NOx burners at issue here; and utilities have done so at multiple units in *less* than the time that EPA is allowing here. Selective Catalytic Reduction ("SCR") technology, for example, was installed at three units at the W.A. Parish plant in a fifteen-month period; SCR systems were installed at five units at the Kyger Creek power plant in twenty-four months; SCR systems were installed at five units of the Clifty Creek power plant over twenty-four months; and SCR was installed at two units at the Cross plant and four units at the Winyah plant in twelve months. *See* Stamper Report at 27, EPA Docket ID No. EPA-R06-OAR-2015-0189-0171, Attached as Exhibit H. There is no rational basis for concluding that Entergy and AECC need more time to install less complicated and less expensive control technology than other utilities have had to install SCR, as there is no evidence that Entergy and AECC face significantly different regulatory requirements or other circumstances.

EPA suggests that the Arkansas FIP compliance deadlines for NOx are unsupported and infeasible because the deadlines were based, in part, on a 2006 report issued by the Institute of Clean Air Companies ("ICAC") that the Conservation Organizations cited in their comments on the proposed FIP. But EPA ignores that more recent documents relied on by EPA reach the same conclusion as the 2006 ICAC report, namely, that low-NOx burners can be installed in much less time than the 18 months provided by the Arkansas haze FIP. For example, in finalizing the 2016 Cross-State Air Pollution Update Rule, EPA found that "construction of new combustion controls can be done quickly – within 6 months."[8] Indeed, EPA has repeatedly observed that low NOx burners typically require 6-8 months to install.[9] And a 2013 ICAC presentation cited a 12-18 month timeframe for the installation of both low NOx burners *and* separate Selective Non-Catalytic Reduction technology.[10] In sum, EPA's suggestion that the

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[8] EPA, Cross State Air Pollution Update Rule – Response to Comment, EPA Docket No. EPA-HQ-OAR-2015-0500-0572 at 489, Attached as Exhibit I.

[9] EPA, Technical Support Document (TSD) for the Cross-State Air Pollution Rule for the 2008 Ozone NAAQS, Docket No. EPA-HQ-OAR-2015-0500, Assessment of Non-EGU NOx Emission Controls, Cost of Controls, and Time for Compliance at 19 (Nov. 2015), Attached as Exhibit J.

[10] Institute of Clean Air Companies, Status of Air Pollution Control and Monitoring Technologies (July 2013), *available at* http://c.ymcdn.com/sites/www.icac.com/resource/resmgr/ex_update/full_icac_presentation.pdf; EPA, Technical Support Document (TSD) for the Cross-State Air Pollution Rule for the 2008

conclusions in the 2006 ICAC report are unreliable is contradicted by EPA's repeated statements, made as recently as last year, that NOx combustion controls can be installed in six months, which is much less time than the eighteen months allowed by the FIP.

Finally, EPA claims that the additional time is needed to coordinate outages so as not to jeopardize reliability, particularly because four of the units are in the same regional transmission organization. But EPA provides no explanation as to the relevance of four units being in the same regional transmission organization. Presumably, EPA is referring to the fact that the four units at White Bluff and Independence are in the Midcontinent Independent System Operator ("MISO") regional transmission organization ("RTO"). MISO manages an electricity market and transmission system spanning 15 states, with over 400 companies providing electricity into the market. *See* MISO, Fact Sheet, *available at* https://www.misoenergy.org/AboutUs/Pages/FactSheet.aspx, Attached as Exhibit M. MISO has nearly 200,000 megawatts ("MW") of electric generation capacity available for reliability purposes. *Id.* The four White Bluff and Independence units amount to approximately 3,700 MW of capacity, which is less than 2% of the total electric generating capacity in MISO. If anything, the fact that the four units are all in MISO makes it easier, not harder, to ensure reliability, because MISO can manage outages at four units, rather than having multiple RTOs be involved. Furthermore, as the attached data show,[11] outages of these Entergy units have been routine. For example, since the start of 2015, for 37% of hours, only one or two of Entergy's units have been operating. For the first six months of 2017, during 45% of hours, only one or two Entergy's units were operating. For a 37-day stretch earlier this year, only one of Entergy's units was operating. In other words, it has been routine for these units to undergo lengthy outages and MISO apparently is capable of accommodating such outages while maintaining the reliability of its grid. In short, there is no evidence in the record to support EPA's speculation that the current FIP deadline might cause reliability problems in MISO.

B. An Eighteen-Month Deadline is a Logical Outgrowth of a Proposed Three-Year Deadline.

EPA's claim that the final FIP is not a logical outgrowth of the proposal, 82 Fed. Reg. at 32,285-86, has no merit. EPA notes that the agency proposed a three-year compliance deadline for the NOx limits for White Bluff and Independence, but finalized an eighteen-month deadline, in response to comments from environmental groups. *Id.* at 32,285. EPA implies that simply because the final rule's deadlines differed from the proposal's deadline, the final rule violates the notice and comment requirements. This argument has no basis in the law.

Ozone NAAQS, Docket No. EPA-HQ-OAR-2015-0500, EGU NOX Mitigation Strategies Proposed Rule TSD (Sept. 2015), Attached as Exhibit K; EPA, Technical Support Document (TSD) for the Transport Rule, Docket No. EPA-HQ-OAR-2009-0491, Installation Timing for Low NOX Burners (LNB) (July 2010), Attached as Exhibit L.

[11] MISO outage data from 2000 through Second Quarter 2017, Attached as Exhibit N.

EPA ignores that "[a]gencies are free — indeed, they are encouraged — to modify proposed rules as a result of the comments they receive." *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 951 (D.C. Cir. 2004); *see also Ariz. Pub. Serv. Co. v. EPA*, 211 F.3d 1280, 1300 (D.C. Cir. 2000) ("the Agency's change of heart . . . only demonstrates the value of the comments it received"); *Kooritzky v. Reich*, 17 F.3d 1509, 1513 (D.C. Cir. 1994) ("It is an elementary principle of rulemaking that a final rule need not match the rule proposed, indeed must not if the record demands a change."). If EPA could not alter a proposal in response to comments, EPA "could learn from the comments on its proposals only at the peril of subjecting itself to rulemaking without end," which would undermine the entire purpose of requiring EPA to receive public comments in the first place. *Ne. Maryland Waste Disposal Auth.*, 358 F.3d at 951 (quoting *First Am. Discount Corp. v. Commodity Futures Trading Comm'n*, 222 F.3d 1008, 1015 (D.C. Cir. 2000)). Accordingly, "[t]he notice-and-comment requirements *presume* that the contours of the agency's final rule may differ from those of the rule it initially proposes in an NPRM." *Crawford v. FCC*, 417 F.3d 1289, 1295 (D.C. Cir. 2005) (emphasis added).

"It is well-settled that an agency need not initiate a new notice-and-comment period as long as the rule it ultimately adopts is a 'logical outgrowth' of the initial notice." *Id.*; *see also Covad Communications Co. v. FCC*, 450 F.3d 528, 548 (D.C. Cir. 2006). Here, the technology basis for the NOx limits for White Bluff and Independence did not change between proposal and final; in both rules, EPA determined that the NOx limits should be based on the use of low-NOx burners and overfire air for Flint Creek, and low-NOx burners and separate overfire air for White Bluff and Independence. The primary change in the final rule was that EPA shortened the compliance deadline from thirty-six months to eighteen-months, in response to comments. A final rule that relies on the identical technology as the proposal, but which merely shortens the compliance deadline, is a logical outgrowth of the proposal.

Furthermore, the fact that environmental groups commented on the need for a shorter compliance timeframe undermines EPA's argument that industry could not have anticipated the need to comment on alternative compliance deadlines. Similarly, SWEPCO commented on the need for a longer compliance deadline than 3 years, demonstrating that industry understood that EPA might change the 3-year compliance deadline it had proposed. AEP-SWEPCO, Comments on Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Proposed Rule, EPA Docket No. EPA-R06-0AR-2015-0189-0167 at 3 (Aug. 7, 2015).[12] For these reasons, EPA's argument that an extension of the compliance deadlines is necessary to remedy an alleged violation of the notice and comment requirements has no merit.

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[12] In addition, Entergy submitted conclusory comments asserting that the Company needed three years to install NOx controls without providing any record support for an extended compliance timeline. Entergy Arkansas Inc., Comments on the Proposed Regional Haze and Interstate Visibility Transport Federal Implementation Plan for Arkansas, EPA Docket No. EPA-R06-0AR-2015-0189-0166 at 2, 13 (Aug. 7, 2015).

C. Even if EPA Were Correct that a New Notice and Comment Period Were Required, that Would Not Justify Extending the Compliance Deadlines Until 2020.

Even if EPA were correct that the final FIP's deadlines are not a logical outgrowth of the proposal, the remedy EPA proposes is not justified. Providing new notice and an opportunity to comment is the remedy for a failure to provide notice and comment. EPA has now provided new notice and an opportunity for comment. Extending the deadlines until 2020 is not rationally related to the alleged notice and comment defect in the FIP, because it does not take until 2020 to provide new notice and an opportunity to comment.

CONCLUSION

For the foregoing reasons, EPA's proposed extension of the FIP's deadlines to comply with the NOx limits at Flint Creek, Independence, and White Bluff is arbitrary and capricious and otherwise unlawful. EPA should withdraw the proposal and leave the current deadlines in the FIP intact.

Please do not hesitate to contact us with any questions.

Sincerely,

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Cc: Deese, William[deese.william@epa.gov]
From: Deese, William
Sent: Tue 6/20/2017 4:54:51 PM
Subject: Comment ID: EPA-R06-OAR-2017-0129-DRAFT-0018 Earthjustice, National Parks Conservation Association, and Sierra Club.
Stamper Report LA Haze SIP Approval_June 18 2017.pdf
Ex 1_Stamper Report.xlsx
Ex 2_Stamper Report.xlsx
Ex 3_Stamper Report.pdf
Ex 4_Stamper Report.pdf
Ex 5_Stamper Report.pdf

Should I post this now or wait? Attached is the Stampler Report and the first five exhibits .

Let me know if you need to see the rest of the Ex 6 to Ex 38 – see list below -- I can put them on the H User Share drive.

– I think we received the Stampler report and exhibits for one (or two) of our proposed RH FRs.

PUBLIC SUBMISSION

Docket: EPA-R06-OAR-2017-0129
LA059 Louisiana Regional Haze Electric Generating Units Best Available Retrofit Technology State Impleme

Comment On: EPA-R06-OAR-2017-0129-0001
LA059.001 Air Quality State Implementation Plans; Approval and Promulgation: Louisiana; Regional Haze S

Document: EPA-R06-OAR-2017-0129-DRAFT-0018
Comment on EPA-R06-OAR-2017-0129-0001

Submitter Information

General Comment

Please find attached the Report of Victoria R. Stamper, along with Exhibits 1 to 38, which together accompany
Association, and Sierra Club.

Attachments

Stamper Report LA Haze SIP Approval_June 18 2017

Ex 1_Stamper Report

Ex 2_Stamper Report

Ex 3_Stamper Report

Stamper Report LA Haze SIP Approval_June 18 2017

Ex 1_Stamper Report

Ex 2_Stamper Report

Ex 3_Stamper Report

Ex 4_Stamper Report

Ex 5_Stamper Report

Ex 6_Stamper Report

Ex 7_Stamper Report

Ex 8_Stamper Report

Ex 9_Stamper Report

Ex 10_Stamper Report

Ex 11_Stamper Report

Ex 12_Stamper Report

Ex 13_Stamper Report

Ex 14A_Stamper Report

Ex 14B_Stamper Report

Ex 15_Stamper Report

Ex 16_Stamper Report

Ex 17_Stamper Report

Ex 18_Stamper Report

Ex 19_Stamper Report

Ex 20_Stamper Report

Ex 21_Stamper Report

Ex 22_Stamper Report

Ex 23_Stamper Report

Ex 24_Stamper Report

Ex 25_Stamper Request

Ex 26_Stamper Report

Ex 27_Stamper Report

Ex 28_Stamper Report

Ex 29_Stamper Report

Ex 30_Stamper Report

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EPA-R06-OAR-2017-0129

EPA-R06-OAR-2017-0129-DRAFT-0018

Document Details | Optional Details | Submitter Info | Attachments (40) | Permissions

Viewable on Regulations.gov * Denotes Required Field

Actions

Comment: Please find attached the Report of Victoria R. Stamper, along with Exhibits 1 to 38, which together accompany the comments of Earthjustice, National Parks Conservation Association, and Sierra Club. *

Organization Name:

Submitter's Representative:

Government Agency Type:

Government Agency:

Cover Page: HTML

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BEFORE THE
ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF SOUTHWESTERN	**)**	
ELECTRIC POWER COMPANY'S	**)**	
PETITION FOR A DECLARATORY	**)**	
ORDER FINDING THAT INSTALLATION	**)**	**DOCKET NO. 12-008-U**
OF ENVIRONMENTAL CONTROLS AT	**)**	
THE FLINT CREEK POWER PLANT IS	**)**	
IN THE PUBLIC INTEREST	**)**	

DIRECT TESTIMONY OF

CHRISTIAN T. BEAM

ON BEHALF OF

SOUTHWESTERN ELECTRIC POWER COMPANY

FEBRUARY 8, 2012

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EXHIBITS

EXHIBIT CTB-1 PROJECT SCHEDULE

EXHIBIT CTB-2 TECHNOLOGY OPTIONS

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I. INTRODUCTION AND QUALIFICATIONS

Q. **PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Christian T. Beam. My business address is 1 Riverside Plaza, Columbus, Ohio 43215.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. My title is Managing Director – Projects and Construction in the Generation Engineering, Projects and Field Services (EP&FS) organization for the American Electric Power Service Corporation (AEPSC). AEPSC supplies engineering, financing, accounting and similar planning and advisory services to the subsidiaries of American Electric Power Company, Inc. (AEP or "the Company"), including Southwestern Electric Power Company (SWEPCO).

Q. **PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND**.

A. I earned a Bachelor's Degree in Applied Science with a focus on project management from DeVry University. I am a certified Project Management Professional (PMP) and completed the AEP Leadership Program at The Ohio State University in 2007. I have held positions of escalating responsibility since I started with Ohio Power Company (a subsidiary of AEP) in 1990 in the Utility Operations department at the Kammer Plant. In 1997, I moved to AEPSC and was named Outage Project Supervisor for the Regional Service Organization (RSO) serving the Kammer/Mitchell and Cardinal Plants. In 2000, I assumed a new role as Superintendent for the RSO supporting

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1 Southwestern Electric Power Company (another AEP subsidiary) and subsequently
2 became Manager - Region Outage Management in 2002. In 2004, I was named
3 Manager for the Flue Gas Desulphurization (FGD) retrofit project at APCo's
4 Mountaineer Plant. I became Manager - Construction Technology in 2007 and then
5 Director - Construction in 2008. In 2009, I was named the Project Director –
6 Environmental Retrofit Projects. I assumed my current position in 2010.

7 **Q. WHAT ARE YOUR PRIMARY RESPONSIBILITIES IN YOUR CURRENT**
8 **POSITION?**

9 **A.** As Managing Director - Projects and Construction, I am responsible for the
10 construction and start-up services associated with all environmental retrofit and new
11 generation projects and the project management of AEP's western fleet.

12 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY AS A WITNESS BEFORE**
13 **ANY REGULATORY COMMISSION?**

14 **A.** Yes, before the Public Service Commission of West Virginia in 11-0274-E-GI, the
15 Commonwealth of Virginia State Corporation Commission in PUE-2011-00036, and
16 the Public Utility Commission of Texas Docket No. 39708.

17 **II. PURPOSE OF TESTIMONY**

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

19 **A.** The purpose of my testimony in this proceeding is to provide a brief overview of the
20 Flint Creek Power Plant and to describe the process that is being performed by the
21 AEPSC, on the behalf of SWEPCO, to retrofit Flint Creek with environmental

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1 equipment including the proposed flue gas desulfurization (FGD) with pulse jet fabric
2 filter (FF), also referred to as a baghouse, to reduce the plant's emissions of sulfur
3 dioxide (SO_2) and activated carbon injection (ACI) to reduce the plant's emissions of
4 mercury (Hg). I will also describe AEPSC's efforts to select the best SO_2 and
5 hazardous air pollutants (HAPS) reduction technology for Flint Creek, the expected
6 performance of the technology, and the current cost estimate to retrofit the technology
7 on the unit. SWEPCO also anticipates a need for low NO_X burners and over-fired air
8 for environmental compliance. Finally, I will provide information on the current
9 status of the project and the project plan, including the critical milestones to meet the
10 environmental regulatory compliance deadlines.

11 **Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS PROCEEDING?**

12 **A.** Yes, I am sponsoring Exhibit CTB-1 – Project Schedule and CTB-2-FGD
13 Technology Options.

14 **III. OVERVIEW OF FLINT CREEK POWER PLANT**

15 **Q. PLEASE DESCRIBE THE FLINT CREEK POWER PLANT.**

16 **A.** The Flint Creek Power Plant is a jointly-owned plant located in Benton County,
17 Arkansas near the town of Gentry. Arkansas Electric Cooperative Corporation
18 (AECC) is the co-owner of the plant on a 50/50 net output and cost basis. Flint Creek
19 is a single-unit, pulverized coal-fired plant with a net capacity of 528 MW and was
20 placed in service in 1978. SWEPCO's ownership portion of this unit is 264 MW net,
21 and is responsible for operating and maintaining the plant.

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1 The Flint Creek unit is fueled with low sulfur Powder River Basin (PRB) coal
2 received via unit coal trains. Fuel oil is used for ignition and flame stabilization on
3 this base-load unit. The unit is currently equipped with electrostatic precipitators for
4 fly ash control. Fly ash collected from the electrostatic precipitators is sold for by-
5 product re-use as part of the company's sustainability program. Ash not sold for re-
6 use is currently transported via truck to an on-site permit-approved landfill.

7 **IV. ENVIRONMENTAL PROJECTS PROCESS**

8 **Q. PLEASE DESCRIBE THE PLANNING ACTIVITIES CONDUCTED BY THE**
9 **COMPANY FOR THE RETROFIT OF ENVIRONMENTAL CONTROLS AT**
10 **FLINT CREEK.**

11 **A.** As addressed by Company witness Weaver, the Company has acted to identify the
12 most economical SO_2, mercury and other HAPS reduction technology, and has also
13 developed an associated cost estimate in order to perform analyses to determine if the
14 project is economically beneficial for SWEPCO customers.

15 **Q. PLEASE PROVIDE AN OVERVIEW OF THE CURRENT PROJECT PLAN**
16 **FOR THE FLINT CREEK FGD.**

17 **A.** The Flint Creek Plant's FGD retrofit project will be executed using the same phased
18 approach that has been successfully employed by AEP on many past projects. The
19 phased approach begins with Phase I, which consists primarily of a feasibility study.
20 Phase IIa is the preliminary engineering and design stage, while Phase IIb provides
21 for detailed engineering, design, and initial site construction activities. Full-scale

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1 construction, startup, and commissioning are undertaken in Phase III. A detailed
2 evaluation, followed by financial authorization, is required before the project can
3 proceed from one phase to the next. A graphical timeline showing the phased
4 approach as well as major project milestones is provided in Exhibit CTB-1.

5 Since 2004, AEP has implemented this phased approach in the installation of
6 FGD systems on nearly 10,800 MW of coal-fired generation and selective catalytic
7 reduction (SCR) systems on more than 8,200 MW. At the height of construction
8 activity in 2007, Engineering News-Record identified AEP's overall construction
9 program as the largest in the utility industry and the second largest in the nation,
10 based on capital invested. The Flint Creek Plant FGD retrofit will positively benefit
11 from years of valuable lessons learned and best practices. AEP's Quality Assurance
12 Program for Projects is based on industry standard methodology established by the
13 Project Management Institute (PMI). In addition, AEP's Project Management
14 leadership team for the Flint Creek Plant FGD Project is PMI Project Management
15 Professional (PMP) certified.

16 **Q. IN WHAT PHASE IS THE FLINT CREEK PLANT'S FGD PROJECT**
17 **CURRENTLY?**

18 **A.** The project is currently in Phase I. The project has been initiated and the project
19 planning and conceptual engineering required to support this filing have been
20 completed. A Project Plan will be developed which will include a detailed execution
21 strategy for the engineering, design, procurement, permitting, construction, startup
22 and commissioning of the FGD and ACI systems.

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1 **Q. PLEASE DESCRIBE THE ACTIVITIES THAT OCCUR DURING PHASE I.**

2 **A.** The formal process begins with the preparation and approval of a Capital
3 Improvement Requisition (CI) after which an architect/engineer is engaged to
4 perform the engineering, design, and feasibility studies for Phase I and the ensuing
5 phases of the project. The intent of the Phase I feasibility studies is to investigate the
6 technical options and factors driving the project cost and schedule. During Phase I,
7 the architect/engineer, with input from a team of AEPSC engineers and managers,
8 defines the scope of the project, prepares work plans, and develops a budgetary cost
9 estimate and schedule for implementation. In addition, preliminary environmental
10 permitting activities begin and the FGD and ACI supplier is released to begin
11 conceptual engineering. The results of the Phase I conceptual engineering and
12 feasibility studies are presented to senior management and authorization is sought to
13 proceed to Phase IIa. Approval to proceed to the next project phase is accomplished
14 by either a formal AEPSC and SWEPCO Management meeting or the CI revision
15 approval by the key stakeholders.

16 **Q. PLEASE DESCRIBE THE ACTIVITIES THAT TAKE PLACE IN PHASE**
17 **IIA.**

18 **A.** Phase IIa consists of preliminary engineering, design, permitting and procurement
19 work. During this phase, we finalize the project scope, refine the cost estimate and
20 schedule, award the Original Equipment Manufacturer (OEM) contract, procure long
21 lead time equipment, and develop drawings to the point that detailed design work can
22 begin. During Phase IIa, modifications to existing air, water and waste environmental

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1 permits are submitted to the Arkansas Department of Environmental Quality to begin
2 the evaluation and approval process, and we assemble the construction and site
3 management teams to begin design evaluations to ensure that the proposed scope of
4 work is optimized for constructability. We also define site preparation plans,
5 determine which, if any, facilities will need to be relocated, select a site preparation
6 contractor, and complete studies to support the various permitting activities that will
7 be required. Upon completion of Phase IIa, the project is again evaluated by key
8 stakeholders to proceed to the next project phase. In this case, a Phase IIb CI revision
9 will be prepared for approval by AEPSC and SWEPCO Management.

10 **Q. PLEASE DESCRIBE PHASE IIB OF THE PROJECT PROCESS.**

11 **A.** Phase IIb consists of detailed engineering, design, contracting and initial site
12 construction work that can be performed prior to the final approval of the air permit.
13 During this phase, as detailed design progresses, construction bid packages are
14 prepared and major equipment is specified, bid, and purchased. The construction and
15 site management teams are mobilized and begin site construction work, and we
16 proceed through the process of selecting and awarding the major construction
17 contracts. Upon completion of Phase IIb, the project is evaluated once again, and a
18 Phase III CI revision will be prepared for approval by AEPSC and SWEPCO
19 Management.

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1 **Q. WHAT TAKES PLACE DURING PHASE III?**

2 **A.** Phase III consists of the full-scale construction and startup and commissioning of the
3 project. The principal construction contractors mobilize and begin the major
4 construction effort. Engineering and design continues in support of the project
5 throughout the construction and testing activities, including the validation of the
6 design, the preparation of as-built drawings, and the evaluation and approval of
7 necessary design changes. Phase III is complete when the project is complete and the
8 equipment is commissioned and placed in service.

9 **Q. WHAT ARE THE MAJOR BENEFITS DERIVED FROM THIS PHASED**
10 **APPROACH TO CONSTRUCTION PROJECTS?**

11 **A.** The phased approach provides structured control of the project scope and costs. It
12 provides a minimum of three specific decision points (the end of Phases I, IIa, and
13 IIb) where engineering and design, cost, and schedule are evaluated to ensure they are
14 meeting the intent and expectations of the project. Starting major construction
15 activities when the detailed discipline design is substantially complete allows
16 construction to proceed, in many cases, on a fixed or target price basis, since many of
17 the design changes that might otherwise result in additional work and cost will have
18 been identified and remedied. Participation by experienced construction team
19 members during the design phases assures that the equipment layout and
20 modularization results in optimized constructability and a smooth transition into the
21 major construction phase of the project.

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1 **Q. PLEASE GENERALLY DESCRIBE THE PROCESS FOR SELECTING A**
2 **SPECIFIC TECHNOLOGY AND OEM VENDOR FOR THE**
3 **ENVIRONMENTAL CONTROLS TO BE INSTALLED AT ANY UNIT.**

4 **A.** AEP maintains an updated list of technologies that have been proven effective in
5 removing emissions from power plant effluent streams. When a generic control
6 technology (e.g., wet or dry scrubber) has been identified as a potential environmental
7 compliance solution for a specific unit burning an identified range of fuel, an
8 Evaluation Team determines, on a unit-specific basis, which OEMs provide control
9 technologies that can be used on that unit. The Evaluation Team then determines the
10 Total Evaluated Cost (TEC) over the life of the project for each technology. If there
11 is no significant difference between or among the TECs or analyzed business risk, the
12 OEM technology that presents the lowest Total Installed Cost (TIC) is preferred.

13 **Q. PLEASE GENERALLY DESCRIBE THE PROCESS USED TO SELECT A**
14 **CONSTRUCTION CONTRACTOR FOR THE ENVIRONMENTAL**
15 **CONTROLS AT ANY UNIT.**

16 **A.** AEP has processes for evaluating and qualifying construction contractors to ensure
17 they have the capability to perform work of the type and scope envisioned with a
18 demonstrated record of safety focus and performance. Proposals are requested from
19 two or more of the contractors on that list. The final award is based on the TEC and
20 safety performance of those bidders, along with ancillary considerations such as a
21 financial risk assessment, any pricing discounts offered for multiple-unit awards,
22 negotiated shared risk/reward programs, and similar factors.

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1 **Q. WHAT STEPS DOES AEP TAKE TO ENSURE THAT PROJECT COSTS**
2 **ARE REASONABLE AND NECESSARY?**

3 **A.** The three-phase process enables periodic and structured technical and cost
4 evaluations throughout each phase. The Phase I feasibility study assesses technical
5 options and costs. Phase IIa and IIb engineering produces preliminary, then detailed
6 designs to refine the associated costs.

7 As previously discussed, contracting for construction activities when the
8 detailed discipline design is substantially complete allows construction to proceed, in
9 many cases, on a fixed or target price basis. This serves to mitigate SWEPCO's and
10 our customers' exposure to upside cost risks. As Phase III construction and startup
11 and commissioning proceeds, we use prudent construction management practices and
12 cost and schedule controls to ensure that the projects are accomplished in a safe, as
13 well as professional, and cost-effective manner. To that end, AEP has developed a
14 robust Quality Assurance/Quality Control manual that includes Standard Operating
15 Procedures for such activities as Project Integration and Planning, Work
16 Management, Preparation of Estimates, Procurement, Project Schedule Control,
17 Project Cost Control, Corrective and Preventive Actions, and, above all, Safety.

18 **Q. PLEASE DESCRIBE AEP'S PROJECT MANAGEMENT PROCESS.**

19 **A.** AEP uses several formalized management and control processes developed during
20 our years of project execution experience to ensure projects meet cost, schedule,
21 quality, and safety requirements.

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1 Project Cost Management involves the planning, estimating, forecasting, and
2 controlling processes used during each phase of project execution. Estimates and
3 budgets are revised as the project progresses through its phases, and metrics are used
4 to report and manage against those budgets. The cost projections are refined as more
5 engineering is completed, detailed scope is finalized, and estimates are updated with
6 quotes for supply. A detailed risk assessment is completed and revised to determine
7 the level of contingency required by the risks identified as the project progresses.

8 Project Schedule Management ensures that the overall project is executed in
9 accordance with the needs of the interfacing groups so that work is completed in
10 support of the initial operation date. This is accomplished through the use of
11 scheduling tools, the establishment and monitoring of critical project milestones, and
12 the monitoring of specific performance and production metrics. The development of
13 an integrated schedule involves the application of sequencing and durations for the
14 activities required to complete the project. AEPSC acts as the project integrator and
15 the architecture/engineer (A/E), contractors, and vendors provide comprehensive
16 monthly status reports on the project schedule as well as weekly comprehensive
17 schedule updates that include information on activity progress, 30-day look-ahead
18 reports, the status of major activities, and cost/schedule integration information.

19 Project Quality Management ensures that the installed project meets all
20 AEPSC requirements for form, fit, function, and performance. AEPSC Engineering
21 develops a detailed scope of work (SOW) which includes design criteria and
22 specifications for the FGD equipment. A Quality Oversight Plan (QOP) will be

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1 developed to determine what inspections will be conducted, their frequency and the
2 responsible person(s). As part of this plan, an engineering evaluation plan is
3 developed and executed to ensure the quality of the A/E's engineering deliverables.
4 The AEPSC construction site manager will assure field inspections are performed
5 both independently and concurrently with any contractor's inspections. All
6 assessments will be documented to ensure compliance with the QOP.

7 Project Safety Management processes are used by AEPSC to ensure that the
8 project is completed in the safest manner possible. AEPSC has a corporate goal of
9 "Target Zero", which means zero harm to all employees and contractors. The
10 Company has an established culture of providing the safest possible workplace.
11 Every person in an AEPSC facility or on an AEPSC project needs to be proactive in
12 working towards the Company's "Target Zero" goal. A cornerstone in achieving this
13 goal is planning safety into the work. A safe project involves "planning the work and
14 then working the plan."

15 **Q. PLEASE DESCRIBE OTHER FORMALIZED MANAGEMENT AND**
16 **CONTROL PROCESSES USED BY AEP.**

17 **A.** The Company also formally manages and controls procurement, contracts, and risk
18 activities.

19 Project Procurement/Contract Management utilizes competitive bid and
20 program purchase processes to ensure low costs from contractors and vendors that
21 meet AEPSC performance and technical specifications.

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1 Project Risk Management involves the formal process of identifying,
2 quantifying, and mitigating risks associated with the project. This is done through the
3 development of a detailed risk register so that risk can be prioritized and resources
4 efficiently focused on mitigating the most critical risks. The risk register is updated
5 periodically throughout the project duration to ensure risk mitigation priorities are
6 valid.

7 **Q. WILL THE PHASE I FEASIBILITY STUDIES COVER THE ENTIRE SCOPE**
8 **OF THE FLINT CREEK FGD PROJECT?**

9 **A.** Yes. AEP will establish a Division of Work (DOW) clearly defining the
10 responsibilities of the assigned parties not only for the FGD technology, but also site
11 development, reagent and material unloading and handling systems, any required
12 switchyard modifications and the identification of all permitting requirements. AEP
13 design criteria will be clearly communicated to the A/E and the OEM to ensure the
14 benefits of our knowledge and experience in owning, maintaining and operating
15 similar systems is carried forward on the Flint Creek Plant project.

16 **Q. CAN YOU PROVIDE A GRAPHICAL SUMMARY OF THE PHASED**
17 **APPROACH TO CONSTRUCTION?**

18 **A.** Yes. Exhibit CTB-1 shows a preliminary project schedule for the various activities
19 that will take place during this phased approach to construction.

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Q. WHEN IS EACH PHASE ESTIMATED TO BEGIN?

A. Each phase and subsequent activities are displayed in Exhibit CTB-1. Phase I has already commenced and activities are expected to be completed in the third quarter of 2012 with Phase IIa to start in the same time frame. Phase IIb is estimated to begin in the first quarter of 2013 and be completed by the end of the fourth quarter of the same year. We are currently planning on commencing Phase III site construction activities on approximately January 1, 2014, predicated upon the receipt of the Permit-to-Install (PTI), often referred to as the air permit, from the Arkansas Department of Environmental Quality (ADEQ). Any delays to the issuance of the air permit may result in schedule delays and cost impacts to the overall execution of the project.

V. TECHNOLOGY SELECTION

Q. WHAT FGD SYSTEMS WERE CONSIDERED AND HOW DO THEY WORK TO REDUCE SO_2 EMISSIONS?

A. A variety of SO_2 control processes and technologies are in use within the industry, but two commercialized processes emerged for comparative study on Flint Creek: Limestone Forced Oxidation (LSFO) Spray Tower Wet FGD and Lime Dry FGD with Recycle. These processes are typically referred to in the industry as wet FGD (WFGD) and dry FGD (DFGD) systems, respectively.

In a WFGD system, alkaline reagent slurry (usually lime or limestone) is injected into a vessel, where it reacts with the flue gas to collect the SO_2. A WFGD absorber utilizes a high volume of liquid slurry continuously circulating in the

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absorber vessel and collecting in the absorber reaction tank where the scrubbing reaction occurs. A DFGD is comprised of the absorber vessel or duct integrated with a FF. The DFGD does not utilize a liquid filled reaction tank, but instead relies on the scrubbing reactions to take place as the flue gas intermingles with the lime inside the vessel or ductwork and also in the highly reactive dust cake on the surface of the downstream fabric filter media.

Q. WHAT ARE THE KEY OPERATIONAL DIFFERENCES BETWEEN A WET FGD AND A DRY FGD SYSTEM?

A. In most WFGD systems, limestone slurry is used as the reagent and a gypsum byproduct is formed as a result of the chemical reaction. In DFGD systems, lime is used as the reagent and calcium sulfite is formed as a result of the chemical reaction.

The WFGD process requires an additional step not required of a DFGD. A WFGD requires dewatering of the reaction byproducts for solids handling, landfill suitability, and water reuse or disposal; a DFGD collects the reaction byproducts directly in a downstream fabric filter. Thus, solids dewatering or wastewater treatment is not required for a DFGD system.

On a comparable inlet SO_2 concentration, water consumption, auxiliary power usage, solid waste disposal, and equipment footprint are higher for a WFGD than for a DFGD. Co-benefit emissions control for mercury and other Hazardous Air Pollutants (HAPs) is better with a DFGD versus a WFGD due to the integral fabric filter (FF) baghouse associated with the DFGD technology. This is due to the dual functionality of the FF to both remove particulate matter and provide additional

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1 contact time between flue gas and reagent to further reduce SO2 emissions.

2 Plants with WFGD operate with a "wet stack" or a visible thick water vapor
3 plume exiting the stack under all ambient conditions. The stack plume from a DFGD
4 is typically not visible because it operates above the flue gas saturation temperature.
5 A slight water vapor plume might become visible under certain ambient conditions of
6 temperature and humidity.

7 **Q. DID THE COMPANY CONDUCT A STUDY TO COMPARE THE USE OF A**
8 **WFGD TO A DFGD FOR FLINT CREEK?**

9 **A.** Yes. The Projects and Construction group provided technology performance
10 parameters and cost estimates for the initial high level overview of reasonable SO_2
11 compliance options available to SWEPCO customers. Technical and economic
12 evaluations were performed to compare and contrast the WFGD and DFGD
13 technology options that may be applied while burning 0.8 lb sulfur/mmBTU coal.
14 The evaluation of the FGD technology options considered environmental and
15 technical performance, retrofit constraints, and collateral environmental and technical
16 impacts associated with the evaluated technologies. An economic analysis was
17 performed, as outlined in Company witness Scott C. Weaver's testimony.

18 An OEM proprietary DFGD system was compared to a Spray Dryer Absorber
19 (SDA) technology, Circulating Dry Fluidized Bed Scrubber (CDS) technology, and
20 the Limestone Forced Oxidized (LSFO) Spray Tower WFGD technology.

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1 **Q. WHAT ARE THE COST COMPARISONS BETWEEN A DFGD AND A**
2 **WFGD?**
3 **A.** A detailed cost estimate for a DFGD has not been completed for Flint Creek since
4 engineering and design is only in the very early phases. However, our initial Flint
5 Creek Plant cost comparison supports the industry expectation that DFGD is less
6 capital intensive than WFGD. DFGD uses less exotic materials of construction than a
7 WFGD, which not only reduces the initial capital costs, but also future maintenance
8 and equipment replacement costs. In addition, fixed and variable O&M costs are
9 very different, primarily driven by the costs of the reagent used (lime versus
10 limestone). The fuel sulfur content will influence the reagent consumption and thus
11 the variable cost of either technology.
12 **Q. PLEASE OFFER AN OVERVIEW OF THE FGD RETROFIT**
13 **ALTERNATIVES CONSIDERED FOR FLINT CREEK?**
14 **A.** The Company, as well as an AEP EP&FS and AEP Fuel, Emissions & Logistics
15 (FEL) cross-functional team, initially identified and economically-screened a
16 combination of five (5) FGD technology options that were acceptable emission
17 removal solutions for Flint Creek. Exhibit CTB-2 lists those options; however, they
18 can generally be broken down into: 1) two variations of a "wet" FGD; 2) three forms
19 of "dry" FGD technology; 3) a traditional sorbent-injection (SDA) dry FGD; 4) a
20 circulating dry scrubber (CDS) technology; and 5) an OEM proprietary modular
21 DFGD technology ("NID™" design). For all options, this technology screening
22 assumed the utilization of a 0.8 lb. per MMBtu sulfur-content, Power River Basin

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(PRB) coal source. Finally, the cross-functional team also offered two additional "time-sensitive" cost views pertaining to the NID™ DFGD option. In addition to the "base" 30-month construction period, this technology screening team assessed costs applicable to both a 24-month and a 27-month accelerated construction window.

Based on the alternative economic screening performed, as summarized in Exhibit CTB-2, it was recommended by the team that the optimum FGD "retrofit" alternative to be utilized for further modeling purposes was the modular NID™ DFGD technology solution. The model utilized a 0.8 lb. per MMBtu sulfur-content coal, and employed a 30-month construction period.

Q. IS ONE OF THE FGD TECHNOLOGIES A CLEAR FRONT RUNNER TO BE SELECTED FOR INSTALLATION AT FLINT CREEK PLANT?

A. Yes. Considering equivalent SO_2 removal efficiencies among the evaluated FGD technology options for the aforementioned design basis, the proprietary DFGD technology is the favored FGD technology based on the following:

- Lowest total evaluated cost on 30-year (2011-2040) cumulative present worth basis (capital and O&M).
- Lowest water consumption - Total water consumption for the DFGD is significantly less than for the WFGD. This is a major consideration given that Flint Creek is considered to be water limited, as the plant is projected to have difficulty maintaining lake level during a repeat of the historical worst three years of runoff even without the addition of a FGD system. Lowest auxiliary power usage - Auxiliary power requirements are significantly less for a DFGD

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than for a WFGD.

- Lowest reagent usage - Reagent usage is significantly less for a DFGD than for a WFGD.
- Smallest equipment footprint
- Best supports ACI for mercury removal and other hazardous air pollutants (HAPS) removal – Based upon MATS HAPS limits, in particular for mercury, a DFGD is better suited to an ACI system retrofit because the DFGD already includes a fabric filter. A WFGD installation would require the addition of spray towers and an upstream fabric filter or a wet electrostatic precipitator, along with the installation of an ACI system for mercury control to achieve the levels of mercury reductions possible with a DFGD and ACI.
- Best supports SO_3 removal - A DFGD does not create a visible moisture plume leaving the stack under most conditions, while a WFGD does.
- Best supports future National Pollutant Discharge Elimination System (NPDES) permit compliance

Q. WAS A SPECIFIC DFGD TECHNOLOGY SELECTED FOR THE INSTALLATION AT FLINT CREEK?

A. Yes. As shown in Exhibit CTB-2, the technical and economic evaluation of the FGD technologies shows that the proprietary NID™ DFGD technology is the preferred technology for Flint Creek. While the NID™ technology has all of the benefits of the typical DFGD technologies discussed previously, it also has significant benefits over other DFGD technologies, including the previous SDA technology that was proposed

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for the Flint Creek Plant prior to the suspension of the project.

The total installed capital costs for NID™ are lower than that for other DFGD technologies. O&M costs are also lower for NID™, as the total amount of lime consumption required for similar SO_2 removal is less than the amount for other DFGD technologies. Unlike other DFGD systems, the NID™ technology process does not require the use of lime slurry and its associated equipment. This results in a less complex system that is easier to install and maintain.

NID™ technology can attain higher levels of SO_2 reduction, with vendor guarantee removal rates of 98% compared to maximum removal rates of 95% for SDA and other DFGD technologies. The higher removal rate for NID™ allows for greater fuel flexibility for the Flint Creek site to meet environmental compliance limits.

. The DFGD system that is proposed for installation at Flint Creek will remove 95% of the SO2 in the flue gas to meet anticipated emission limits for the design basis fuel. However, as discussed above, NID™ technology provides greater flexibility for increased SO_2 removal rates, if required in the future.

Q. PLEASE PROVIDE AN OVERVIEW OF THE EQUIPMENT THAT WILL BE INSTALLED AS PART OF THE DFGD SYSTEM.

A. The following equipment would be installed as part of a DFGD system installation at Flint Creek. This list is not all-inclusive.

- Pebble lime rail and truck unloading equipment and storage silos
- Absorber vessels or ductwork modules

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- Induced draft fans and motors
- Tie-in ductwork
- Pulse jet fabric filter
- Ash recycle system foundations, equipment, and building
- Waste storage silo and truck loading equipment
- Equipment to supply electrical needs of new process equipment
- Distributed control system (DCS) for new process equipment
- Balance of plant piping (fire protection, service water, sanitary, etc.)

Q. WHAT IS THE PROJECTED SERVICE LIFE OF THE DFGD SYSTEM?

A. The DFGD system has been specified such that the system shall operate safely, reliably and without excessive maintenance for a design life of 25 years.

Q. PLEASE SUMMARISE WHY A DFGD WAS CHOSEN FOR INSTALLATION AT FLINT CREEK?

A. Based on the above, the DFGD is the technology of choice for Flint Creek to meet the required emission limits. The DFGD project cost estimate will be refined as engineering and design progresses, but DFGD is projected to be the lowest cost option especially when considering multi-pollutant reduction performance compared to WFGD. While both systems would meet the necessary emission limits imposed by the Arkansas Regional Haze Rule (RHR), Cross- State Air Pollution Rule (CSAPR), and the Mercury Air and Toxic Standards (MATS Rule), the DFGD system is better suited for Flint Creek from both a technical and cost perspective.

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Q. HAS AN ACI SYSTEM BEEN INCLUDED AS PART OF THE EVALUATION OF THE FGD FOR FLINT CREEK?

A. Yes. In order to meet the mercury removal requirements of the MATS Rule, an ACI system will be required for the Flint Creek Plant. Typically, an ACI system requires the installation of a FF to collect the activated carbon/mercury particulate. Since an FF is an integral component of the DGFD scope, it has been included in the economic and technical evaluation for the Flint Creek Plant environmental projects.

Q. WHAT OTHER ENVIRONMENTAL PROJECTS WILL BE INCLUDED?

A. Low NO_X burners and over-fire air may need to be installed at Flint Creek. Low NO_X burners are designed to burn coal at the lowest reasonable temperature while also starting stable combustion as soon as possible. Over-fire air is commonly used in conjunction with low NO_X burners to further reduce of the amount of oxygen available for combustion in the main burner zone. If low NO_X burners and over-fire air are installed on Flint Creek, the NO_X rate is expected to drop to the 0.18 to 0.22 lbs/mmbtu range.

In addition, a landfill is planned for construction in support of the DFGD system installation, and will be used for the disposal of coal combustion byproducts that are not suitable for commercial or public use. Other systems and equipment to be installed in support of the functionality of the DFGD system for Flint Creek include balanced draft conversion; material handling improvements, steam coil modifications;

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unit controls modernization for new process equipment; and continuous emissions monitors (CEMS) upgrades.

Q. IS AN SCR INCLUDED IN THE FLINT CREEK ENVIRONMENTAL PROJECTS FOR MATS RULE, CSAPR AND/OR ARKANSAS RHR COMPLIANCE?

A. No. An SCR is not required for the current compliance strategy for the Flint Creek Plant environmental projects. However, as discussed by Company witness Hendricks, there is a potential for the addition of an SCR at the Flint Creek Plant in the future. As part of the planning for the DFGD system, the potential addition of an SCR at a later date will be included. The possible SCR installation will result in the need to reserve areas on the DFGD equipment General Arrangement (GA) drawings for the installation of an SCR system, and the sizing of new fans to accommodate the potential installation of an SCR in the future.

VI. FLINT CREEK PLANT PROJECT COST ESTIMATE

Q. WHAT IS THE ESTIMATED PROJECT COST FOR THE INSTALLATION OF THE DFGD SYSTEM AND OTHER ASSOCIATED ENVIRONMENTAL CONTROLS ON THE UNIT AT THE FLINT CREEK PLANT?

A. SWEPCO's cost of the DFGD system and associated environmental controls project installations, excluding AFUDC and company overheads, is currently estimated at $408.7 million, as shown in Table 1 below.

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Table 1

Flint Creek Plant Environmental Controls Capital Cost Summary

Scope of Work	Direct Cost ($M)
FGD	
DFGD	$312.2
ACI	$14.3
Associated Projects	
Landfill	$25.0
Unit Controls Modernization	$20.0
Low Nox (LNB, OFA)	$16.0
Balanced Draft Modifications	$15.0
Material Handling Improvements	$3.5
CEMS Systems	$2.2
Steam Coil Mods	$0.5
Total	$408.7

This cost estimate includes the installation of the DFGD system, landfill development work that is necessary to dispose of the product from the DFGD, and other associated upgrades to existing plant equipment, including unit controls modernization, low NO_X burners and OFA upgrades, balanced draft modifications, material handling improvements, steam coil upgrades, continuous emission monitoring systems (CEMS) and ACI. This estimate also includes an allocation for support of the project from the AEPSC (Owner's Cost).

Q. HOW WAS THE COST ESTIMATE FOR THE FLINT CREEK PROJECT DEVELOPED?

A. The estimate was developed from technology evaluations and estimates associated

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with FGD studies for AEP's Big Sandy and Rockport Plants and AEP's years of experience with environmental system construction and startup execution. Competitive bids were solicited for various removal technologies as part of these studies; however, the pricing was based on highly indicative supplier estimates with little to no site specific detail. The selected bid proposal estimates were converted to $/kw indicative pricing to allow for scaling of pricing associated with Flint Creek's 528 MW unit size. The estimates were based on an assumed in-service date occurring during the second quarter of 2016.

Q. WHAT IS THE LEVEL OF ACCURACY CONTAINED IN THE COST ESTIMATE PRESENTED IN THIS TESTIMONY?

A. The cost estimate presented in my direct testimony is based on recognized standards by the Association for the Advancement of Cost Engineering (AACE). Based upon our experience in executing projects such as this and our utilization of actual cost data from recent projects, as outlined above, we believe our range of accuracy to be in -15% to +20% range. We would be somewhat remiss to presume that all site-specific anomalies have been both recognized and accounted for in our estimate methodology and thus have chosen to apply a 10% contingency to our estimate.

Q. WHAT OTHER ACTIVITIES MUST BE COMPLETED PRIOR TO THE DEVELOPMENT OF A MORE DETAILED COST ESTIMATE?

A. As outlined above, the project is currently in Phase I engineering and design. Further project planning and conceptual engineering will be performed and the cost estimate will be refined before proceeding to Phase IIa in the fourth quarter of 2012. During

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1 Phase IIa, the cost estimate will be further refined. This work is currently scheduled
2 to be completed in the first quarter of 2013 before the project can enter Phase IIb.
3 Phase IIb will continue through the fourth quarter of 2013 and will result in a highly
4 detailed cost estimate.

5 **Q. PLEASE DESCRIBE HOW SWEPCO HAS ACCOUNTED FOR THE**
6 **ESCALATION OF LABOR AND MATERIALS IN THE COST ESTIMATE.**

7 **A.** SWEPCO has included the escalation of labor and materials in the cost estimate. The
8 estimate takes into consideration AEP's past experience in procuring labor and
9 materials, and the actual annual escalation/de-escalation rates to date.

10 **Q. DOES SWEPCO EMPLOY ANY METHODS TO MITIGATE THE RISK OF**
11 **ESCALATION OF COSTS THAT MAY AFFECT THE CONSTRUCTION OF**
12 **THE FLINT CREEK PLANT DFGD?**

13 **A.** Yes. SWEPCO and its customers will be benefitted by having access to AEPSC's
14 Business Intelligence group. One of the key functions of this group is to analyze past,
15 current and projected future market conditions and recommend alternatives to
16 minimize the risks of volatility present in labor, equipment and material markets.
17 AEPSC's strategy of being first to market, locking in queues in production facilities,
18 entering into procurement arrangements such as Discount Cooperative Agreements
19 with major equipment vendors and procuring materials and commodities in bulk at
20 competitive prices serves to mitigate the risk of market price spikes. This strategy
21 will benefit SWEPCO'S customers as many others in the industry will be undertaking
22 similar large-scale construction projects to comply with the environmental

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1 regulations.

2 **Q. IS IT YOUR PROFESSIONAL OPINION THAT SWEPCO/AEPSC HAS**
3 **DEVELOPED A REASONABLE COST ESTIMATE FOR CONSTRUCTION**
4 **OF THE PROJECT?**

5 **A.** Yes. The cost estimate for the Flint Creek Plant project is reasonable considering the
6 development basis and the degree of site-specific engineering and design work
7 completed to date.

8 **Q. HAVE SIMILAR DFGD PROJECTS BEEN SUCCESSFULLY INSTALLED**
9 **AT OTHER AEP UNITS COMPARABLE TO THE FLINT CREEK PLANT?**

10 **A.** AEP is currently installing a DFGD system at the John W. Turk plant in Fulton,
11 Arkansas. The Company has also applied for the grant of a Certificate of Public
12 Convenience and Necessity (CPCN) from the Indiana Utility Regulatory Commission
13 (IURC) and the Kentucky Public Service Commission (KPSC) for the installation of
14 DFGD technology at both the Rockport and Big Sandy Plants. DFGD is a proven and
15 viable technology for SO_2 reduction for coal-fired power plants. AEP has a proven
16 track record of successfully managing the design and construction of many major
17 environmental projects and it is expected that the DFGD installation at Flint Creek
18 will be another success.

19 **Q. HAS AEPSC, ON BEHALF OF SWEPCO, CONDUCTED PAST WORK**
20 **ASSOCIATED WITH A FGD RETROFIT FOR THE FLINT CREEK PLANT?**

21 **A.** Yes. As a part of the Clean Air Interstate Rule (CAIR) compliance strategy, AEPSC
22 began preliminary Phase I feasibility analyses on the Flint Creek Plant in the first

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1 quarter of 2009. Our Engineering, Procurement, and Construction (EPC) Contractor,
2 Western Clean Coal Partners (WCCP), a joint venture of The Industrial Company
3 (TIC) and Sargent & Lundy (S&L), completed a 90% confidence level, order of
4 magnitude cost estimate for DFGD. AEPSC also completed an order of magnitude
5 cost estimate for a WFGD system based on its installation of WFGD technology in
6 prior years on its eastern fleet of coal-fired power plants.

7 **Q. WHAT FACTORS SUPPORTED THE DECISION TO END PHASE I WORK**
8 **ASSOCIATED WITH THE FLINT CREEK PLANT DFGD?**

9 **A.** As discussed by Company witness Hendricks, a decision was made by the Arkansas
10 Pollution Control and Ecology Commission to stay Arkansas State Implementation
11 Plan (SIP) requirements. As a result, SWEPCO decided to suspend activities
12 surrounding the installation of the DFGD until better clarity was available in regards
13 to the SIP requirements.

14 **Q. WHAT WAS THE COST OF THE FLINT CREEK PLANT WORK PRIOR TO**
15 **THE SUSPENSION?**

16 **A.** Prior to the suspension of Phase I and some Phase II activities, approximately $7.1 M
17 of cost associated the DFGD project was incurred as of December 31, 2009.

18 **Q. IN VIEW OF THE SUSPENSION OF THE FLINT CREEK PLANT**
19 **ACTIVITIES, DO YOU CONSIDER THESE COSTS TO HAVE BEEN**
20 **PRUDENTLY INCURRED?**

21 **A.** Yes. The costs incurred represent the best efforts at that time to address the necessary
22 part of the development of the Flint Creek DFGD that is required to meet the federal

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1 and state emission standards described in the testimony of Mr. Hendricks. Also, the
2 performance of this work generated the necessary information that the project would
3 be more complex and expensive than originally anticipated and led to the conclusion
4 that suspending the project was what provided the most benefit to SWEPCO and our
5 customers until a period that would be economically feasible, and provide better
6 clarity of regulatory requirements. Since the suspension of the original project, an
7 additional commercially proven removal technology has become available for use at
8 the Flint Creek Plant. This new technology is the NID DFGD process and, as
9 previously discussed in my testimony, represents a more cost effective and suitable
10 means to comply with final and proposed EPA regulations which create additional
11 benefit for SWEPCO's customers.

12 **VII. CONCLUSION**

13 **Q. PLEASE SUMMARIZE THE NEED FOR THE FLINT CREEK**
14 **ENVIRONMENTAL RETROFIT PROJECT.**

15 **A.** The installation of environmental controls at the Flint Creek will help meet
16 compliance requirements for the final and proposed environmental regulations to
17 insure continued operation of this unit as a reliable, cost-effective source of
18 generation for SWEPCO's customers. AEP's phased strategy for the design,
19 engineering, procurement, construction, and startup/commissioning of its
20 environmental compliance projects contributes to a more reliable, safe, timely, and
21 cost effective project at completion. AEP continues to use and improve prudent
22 project management practices and quality control procedures. These practices and

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1 procedures, combined with our talented staff and focus on safety, quality, cost and
2 schedule performance, ensure that the Flint Creek DFGD project will be successful.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 A. Yes.

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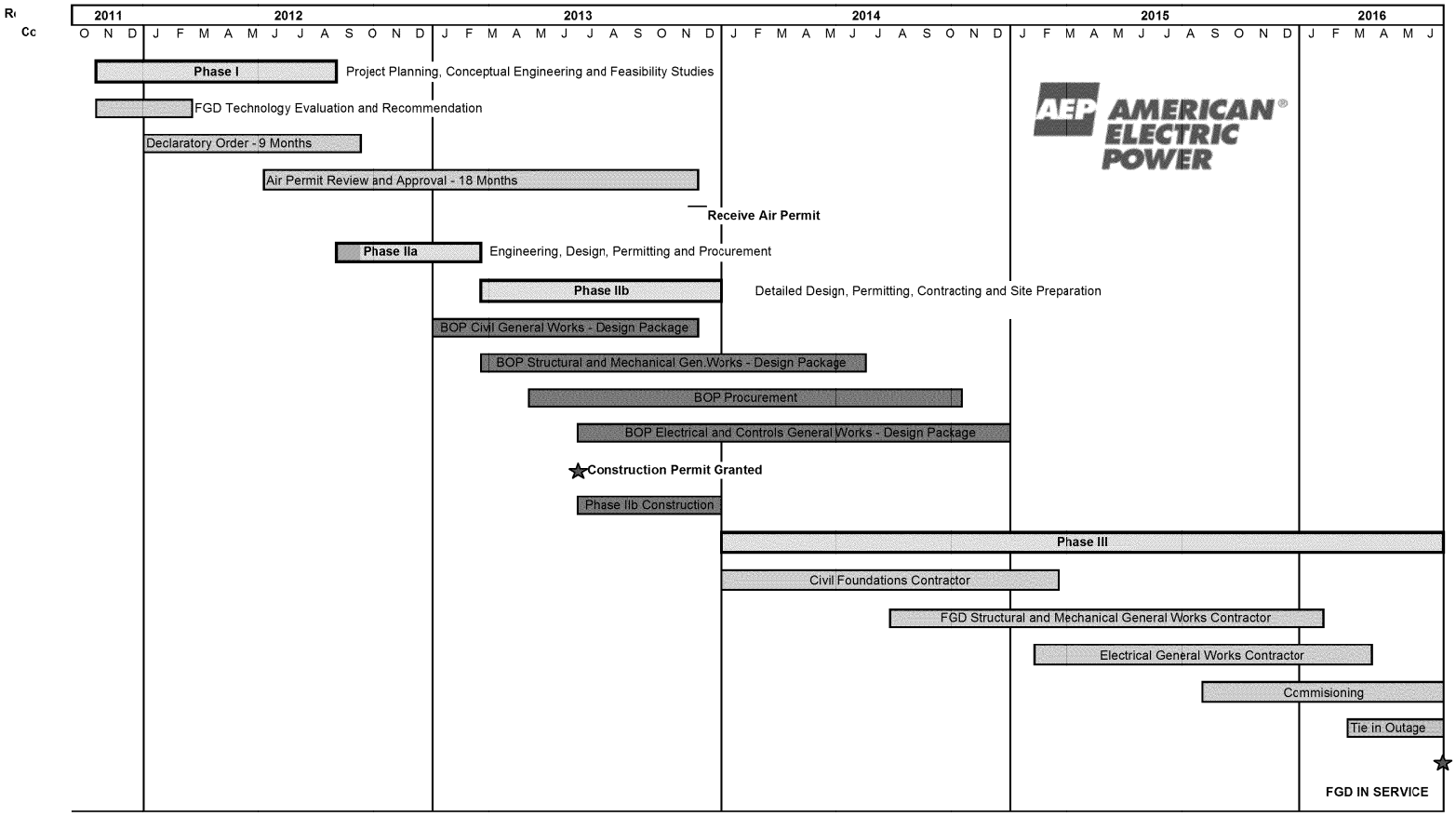

Exhibit CTB-1 - (Level 1) Project Schedule

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Exhibit CTB-2 - FGD Technology Options

Summary: Flint Creek Unit 1 FGD Technology (& Timing) Screening
Relative Free Cash (<COST>/ SAVINGS) vs. Lowest Cost Case

(Using Project-Specific Free Cash Flow Modeling Tool)

Ranked in order of "Relative 10-Yr NPV" (as well as other objective risk factors)

Rank #	CASE #	DESCRIPTION	Relative 10yr NPV ($000s)	Relative 10yr IRR	Relative 20yr NPV ($000s)	Relative 20yr IRR	Relative Payback (Yrs.)
1	Case 3	DFGD NID + FF [27 mos] - 0.8 lb/Mmbtu	-	-	-	-	-
2	Case 7	DFGD NID + FF [30 mos] - 0.8 lb/Mmbtu	**($2,379)**	-1.9%	($3,210)	-0.2%	0.2
3	Case 5	DFGD SDA+FF - 0.8 lb/Mmbtu	**($2,871)**	0.5%	($1,867)	0.0%	(0.0)
4	Case 6	DFGD NID+FF [24 mos] - 0.8 lb/Mmbtu	**($7,032)**	0.2%	($6,463)	-0.1%	0.1
5	Case 4	DFGD CDS+FF - 0.8 lb/Mmbtu	**($40,551)**	-1.9%	($36,968)	-1.0%	0.8
6	Case 1	WFGD + WESP - 0.8 lb/Mmbtu	**($126,149)**	-5.7%	($120,272)	-2.9%	2.7
7	Case 2	WFGD + Spray Tower&FF - 0.8 lb/Mmbtu	**($159,678)**	-6.9%	($151,512)	-3.5%	5.9

Summary: Flint Creek Unit 1 FGD Technology (& Timing) Screening
Relative REVENUE REQUIREMENT (**COST / <SAVINGS>**) vs. Lowest Cost Case

(Using System-Holistic Strategist® Resource Optimization Modeling Tool)

Rank	Retrofit or Replacement Option	In-Service Date	SWEPCO As-Spent Retrofit Capital Cost ($000)	SWEPCO 2011-2040 CPW Revenue Requirements ($000)	Cost over NID(Case 7) 7/2016 In-Svc ($000)	*Timing Sensitivities* Cost over NID(Case 3) **4/2016** In-Svc ($000)	*Timing Sensitivities* Cost over NID(Case 6) **1/2016** In-Svc ($000)
1	NID 30-mo. (Case 7)	7/1/2016	193,360	19,436,651	**-**	(15,878)	(32,031)
2	NID 27-mo. (Case 3)	4/1/2016	199,230	19,452,529	**15,878**	-	(16,153)
3	DFGD SDA (Case 5)	1/1/2016	203,500	19,464,455	**27,804**	11,927	(4,226)
4	DFGD NID 24-mo. (Case 6)	1/1/2016	205,635	19,468,681	**32,031**	16,153	-
5	DFGD CDS (Case 4)	4/1/2016	223,247	19,483,568	**46,917**	31,039	14,886
6	Wet FGD (Case 1)	4/1/2016	271,653	19,556,872	**120,221**	104,344	88,191

To: Jones, Rhea[Jones.Rhea@epa.gov]
From: Kornylak, Vera S.
Sent: Wed 3/15/2017 4:48:35 PM
Subject: summary of key questions_Wednesdaypm_toAnnaVeraRhea+Vera.docx
summary of key questions_Wednesdaypm_toAnnaVeraRhea+Vera.docx

Hi Rhea: here is my feedback. Mostly I flipped the decision + background, and cut where I could cut. The main challenge to me is TX – I'm not seeing a key question at this time there. When you are done, please send directly to Anna.

Vera

To: Johnson, Yvonnew[johnson.yvonnew@epa.gov]
From: Jones, Rhea
Sent: Wed 11/30/2016 4:18:38 AM
Subject: FW: Status of transition pagers
DRAFT Transition Issue Paper CAA126 Petitions 11_28_16_rj clean.docx
Draft Exceptional Events Transition Paper_112916_rj edits+Vera.docx
Draft 2015 ozone transport Transition Paper v3 11_29_16rj CLEAN .docx
Ozone designation_Transition Issue PaperDraft1rjedits 11292916.docx
Transition Issue Paper PM25_SO2_Transport_112916_rjedits.docx
RH Transition Paper -- EPA template_GSGedits_clean.docx

FYI.

From: Jones, Rhea
Sent: Tuesday, November 29, 2016 11:17 PM
To: Gabrilovich, Lev <Gabrilovich.Lev@epa.gov>
Subject: Status of transition pagers

Hi Lev,

Here's the status of our transition pagers for GSG programs, which are due tomorrow. I've attached the latest versions of each pager, fyi:

Completed:

Regional Haze Pager. Has been provided to Yvonne by Melinda.

Has received IO review and is awaiting final draft from the group:

Exceptional Events, with Lev to finalize based on Vera's comments. Lev should send it directly to Yvonne once Vera's comments are addressed.

Has been sent to the IO contact and is awaiting review:

2015 O3 transport. With Michael for review. Lev, please coordinate with Chris as needed to

finalize this pager once Michael provides comments, and ensure that the final pager gets sent to Yvonne.

Section 126 petitions. With Michael for review. I'll try to keep an eye out for Michael's comments, but both staff working on these petitions are participating in the exceptional events workshop tomorrow. If Michael has significant comments, this pager will have to get finalized on Thursday.

Has received comment from Rhea. Staff have been directed to incorporate comments and forward to the IO for review:

2015 ozone designations. Please coordinate with staff to create a final version once Scott has reviewed and provided comments.

2012 PM and 2010 SO2 transport. With Lev to finalize and send to Michael for review.

Still pending:

2010 SO2 designations. I've asked Liz for a status on this one. Note that we did not get a specific request for designations transition pagers, but I've asked staff to provide them anyway.

176 petition. I've asked Gobeail for a status, and have suggested that we use the FRN fact sheet as a placeholder until we can get it into transition pager format. Gobeail had to prioritize the 176 signature package over this request.

2008 ozone transport. Same as 176. We may need more time for this one. I provided some initial information on 2008 issues in the 2015 pager and have asked Michael to weigh in.

Thanks Lev!

Thank you,

Rhea Jones, Group Leader

Geographic Strategies Group

USEPA - Office of Air Quality and Planning Standards

Air Quality Policy Division

109 TW Alexander Drive (C539-04)

Research Triangle Park, NC 27711

919-541-2940

To: Alston, Lala[Alston.Lala@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; OAQPS WOPS[OAQPS_WOPS@epa.gov]; OAR Briefings[OAR_Briefings@epa.gov]
Cc: Koerber, Mike[Koerber.Mike@epa.gov]
From: South, Peter
Sent: Thur 4/6/2017 7:17:23 PM
Subject: Summary of Outstanding Issues with Texas and Arkansas RH Plans: Backgrounder in prep for Sarah's meeting with Sam C
Texas_ Arkansas Reg Haz two Pager March 31 2017 - updated.docx

I have attached a 2-pager in prep for Sarah's meeting with Sam C tomorrow on Arkansas regional haze. Note that this document is the same document Mike sent up for Sarah last week with one edit/insert (see page 2 highlighted text).

Thank you and feel free to call me or Mike Koerber with any questions.

Pete South

OAR/OAQPS/IO

U.S. EPA

office: 919 541-5359

cell: 919 599-7213

Organizer	Coleman, Sam
Subject	Arkansas Regional Haze
Location	C401A
Start time	Fri 4/7/2017 9:00 AM All day event
End time	Fri 4/7/2017 9:20 AM

We should meet just outside the ECOS meeting Room.

From: Bremer, Kristen
Sent: Wed 5/3/2017 3:37:00 PM
Subject: News Clips - May 3, 2017

News Clips – May 3, 2017

Air Quality News

•□□□□□□□□ Wyo., power producers seek halt of regional haze litigation *(Greenwire)*

•□□□□□□□□ DTE Energy Loses Latest Challenge on EPA Air Permitting *(BNA)*

•□□□□□□□□ EPA labels Utah air-quality problems 'serious' *(Salt Lake Tribune)*

•□□□□□□□□ EPA classifies Fairbanks smoke pollution as 'serious' *(AP)*

Climate Change

•□□□□□□□□ EPA Officials Defend Agency's Duty To Follow Science On Climate Change *(Inside EPA)*

•□□□□□□□□ Think tank petitions EPA against endangerment finding *(E&E News)*

•□□□□□□□□ Trump's lawyer raises concerns about remaining in Paris climate accord, sources say *(POLITICO)*

•□□□□□□□□ In the Trump White House, the momentum has turned against the Paris climate agreement *(Washington Post)*

•□□□□□□□□ UN Climate Talks Leader to Trump: Don't 'Abandon the Field of Play' *(BNA)*

•□□□□□□□□ McCarthy slams Trump's 'unprecedented' webpage overhaul *(Greenwire)*

Regulatory Reform

•□□□□□□□□ EPA asks what rules to cut, gets earful about dirty water *(AP)*

•□□□□□□□□ Jeers, cheers as EPA hosts webinar on rule rollbacks *(E&E News)*

•□□□□□□□□ EPA Gets Earful at Listening Session on Toxics Rule Changes *(BNA)*

Appropriations

•□□□□□□□□ FY17 Spending Deal Warns EPA Against Overhaul Without Congress' Input *(Inside EPA)*

On the Hill

•□□□□□□□□ Senate Dems press Pruitt over alleged conflict on ozone *(E&E News)*

Other News

•□□□□□□□□ Industry Seeks To Block, Alter EPA's IRIS Formaldehyde Risk Analysis *(Inside EPA)*

…And in Happier News

•□□□□□□□□ Football player who befriended boy eating alone at school is headed to NFL *(Today)*

On this day in 1802 Washington, D.C. is incorporated as a city

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Wyo., power producers seek halt of regional haze litigation

Greenwire

By: Sean Reilly

Published: May 2, 2017

The state of Wyoming and two power producers are seeking to freeze proceedings in litigation over regional haze regulations following the Trump administration's recent endorsement of a partial settlement reached late last year.

That tentative deal would require Basin Electric Power Cooperative to install new pollution controls at Laramie River Station, a 1,710-megawatt coal-fired plant in southeastern Wyoming (*Greenwire*, Jan. 5). After the administration signaled last week that it would stick with the agreement, Basin Electric, Wyoming and PacifiCorp yesterday asked the 10th U.S. Circuit Court of Appeals to put the consolidated litigation in abeyance pending final action by U.S. EPA.

While the proposed settlement directly affects only the Laramie River plant, those issues "are significantly intertwined with, and overlap, similar issues concerning PacifiCorp's facilities," attorneys wrote in the motion. A pause is needed, they wrote, "because of the interrelatedness of the issues in these consolidated appeals and because of the inefficiencies and harms that may result from resolving a portion of the appeals while the settlement of other, closely-related portions remain pending."

The agency's regional haze program, dating in its current form to 1999, seeks to restore unclouded views to 156 national parks and wilderness areas by 2064. The Wyoming litigation, dating back to 2014, is one in a string of legal fights over the scope of the pollution reduction measures needed to meet the program's requirements.

Oregon-based PacifiCorp, for example, contends that EPA illegally overrode the state's judgment of the controls needed to cut emissions of nitrogen oxides at its 335 MW Wyodak plant in northeast Wyoming. The Powder River Basin Resource Council and other conservation groups say EPA should have imposed new restrictions on the state's oil and gas industry.

Those groups also object to the proposed settlement affecting Laramie River Station, saying in comments filed early this year that they are concerned it "will not achieve the level of visibility improvement" required by the haze reduction program. They also voiced worries about further delays in resolving the rest of the litigation. Their response to the abeyance request is due by May 11, according to a court order, also filed yesterday.

Basin Electric, based in North Dakota, shares ownership of Laramie River Station with five regional partners under the umbrella of the Missouri Basin Power Project.

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DTE Energy Loses Latest Challenge on EPA Air Permitting

Bloomberg BNA

By: Andrew Childers

Published: May 3, 2017

DTE Energy Co. lost yet another bid to challenge the EPA's determination that the utility needed to obtain a permit when it upgraded a coal-fired power plant in Michigan.

The U.S. Court of Appeals for the Sixth Circuit has twice ruled in favor of the Environmental Protection Agency, finding that DTE Energy's $65 million upgrade to its Monroe Power Plant triggered New Source Review permitting provisions. That program requires new and modified industrial facilities to obtain a permit including emissions limits and operating requirements in order to protect air quality, a process that often requires the installation of pollution controls.

The company unsuccessfully argued that the full Sixth Circuit should rehear the case because the underlying panel decisions in favor of the EPA left regulated industries uncertain of the permitting program's rules. The court, in a short order issued May 1, denied that request (United States v. DTE Energy Co., 6th Cir. en banc, No. 14-2274, 5/1/17).

An attorney for the DTE Energy could not be reached for comment.

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EPA labels Utah air-quality problems 'serious'

The Salt Lake Tribune

By: Emma Penrod

Published: May 2, 2017

State officials are mulling new pollution-control measures after the U.S. Environmental Protection Agency has found Utah out of compliance with air-quality standards.

On Friday, the EPA classified the Provo and Salt Lake City metro areas, including Davis and Weber counties and parts of Box Elder and Tooele, as "serious" nonattainment areas.

The "serious" designation, raised from "moderate," confirms that Utah did not meet a 2015 deadline for complying with federal air-quality rules for small particulate pollution, or PM2.5.

Both the Salt Lake City and Provo areas have struggled to meet the standard since it was changed in 2006.

Air-quality advocate Matt Pacenza, executive director of HEAL Utah, welcomed the EPA's decision.

"For nearly 10 years, Utah's air has failed federal health standards," he said. "Now's our chance to look under every rock for measures to reduce pollution from our cars, homes, buildings and businesses in order to protect the health of our families for years to come."

State regulators and clean-air advocates have vetted added pollution controls, including a wood

stove exchange program; emissions rules related to yard care equipment; and more restrictions on heavy duty commercial trucks, railroads and even airports.

But Bryce Bird, director of the Utah Division of Air Quality (DAQ), said if Utah does not experience another episode of bad air this year, the Wasatch Front may reach EPA's standard by year's end.

That would not reverse the EPA's finding that Utah is in serious nonattainment, but it would meet the new deadline for compliance — the end of 2019.

The way EPA's current PM2.5 rules are written, an area can exceed health-based limits on the small particulate pollutants only for approximately 21 days over the course of three years.

Some regions in Utah are already down to just one day remaining out of compliance for the current three-year period.

"That's why we're developing plans," Bird said, "and still working at strategies."

But the weather remains a key factor, he said.

"If we get a pretty long inversion," Bird said, "it would be difficult for any strategy to demonstrate attainment."

The EPA has not issued a decision on Utah's third PM2.5 nonattainment area in Cache County, which extends into Idaho.

Idaho officials applied for an extension of the 2015 deadline for that region, which has met the standard for PM2.5 for the past two years. Cache Valley needs only to avoid violating the

standard for one more year to comply with the federal rule.

Each time a state misses one of the statutory deadlines for meeting pollution standards, the EPA becomes increasingly strict about what the state's air-quality plan must include.

If Salt Lake City and Provo miss the next deadline in 2019, the EPA will essentially require the state to adopt every rule any other state has passed to control PM2.5.

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EPA classifies Fairbanks smoke pollution as 'serious'

Associated Press

Published: May 2, 2017

FAIRBANKS, Alaska (AP) — The U.S. Environmental Protection Agency has reclassified Fairbanks as a "serious" non-attainment area for its failure to meet clean air standards.

The new designation announced Monday means the Fairbanks North Star Borough will have to dramatically reduce its levels of fine particulate pollution by the end of 2019. The borough and the state are expected to come up with a plan for how to best curb pollution this year, The Fairbanks Daily News-Miner reported (http://bit.ly/2qtDmm0).

Fine particulate is a mix of solid particles and liquid droplets that can be inhaled deep in the lungs. It can cause premature death in people suffering heart and lung diseases.

The borough's pollution problems are in large part due to woodstoves used by many residents to heat homes in the frigid winter.

"The big challenge is that the need for heat is greatest when burning wood is most likely to be harmful to public health during severe cold air inversions that trap the fine particulates from wood smoke closer to where people are breathing the polluted air," the EPA's Tim Hamlin said in a statement.

Fairbanks was one of three U.S. communities to receive the serious designation for noncompliance with clear air standards on Monday. The other two were Salt Lake City and Provo, Utah.

Borough officials had been notified beforehand about the new classification. They have been working to develop new smoke pollution control measures for several months.

"We knew it was coming," said Jim Williams, chief of staff at the borough. "We've been preparing."

The borough is awaiting a $2.5 million federal grant to continue a program that allows residents to swap out or fix inefficient, pollution-causing woodstoves, outdoor wood boilers and other devices used to warm homes or businesses.

More than 11,000 wood-burning devices are used in the borough and about 1,260 homes use solid-fuel heating devices as a sole source of heat, according to the EPA.

Hamlin said the EPA will continue to work with the borough and the state "to find solutions that will achieve both clean, healthy air and warm homes."

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EPA Officials Defend Agency's Duty To Follow Science On Climate Change

Inside EPA

By: Stuart Parker

Published: May 2, 2017

Current and former senior EPA officials are defending the agency's prerogative to follow the best available science on climate change from what they say are politically motivated attacks by the Trump administration and other critics of greenhouse gas (GHG) rules, arguing that addressing climate change is one of EPA's fundamental tasks.

At the May 2 annual Health Effects Institute (HEI) conference in Alexandria, VA, senior EPA research staffer Dan Costa -- who said he was speaking in a strictly personal capacity -- and former Obama EPA science policy adviser Thomas Burke both sought to defend the agency's scientific research program, particularly on climate change.

“Climate is integrated into the realities that we are all dealing with,” said Costa, stressing that climate change affects all aspects of the agency's work and also impacts policies on conventional pollution. “You don't have to say you are working on climate. Because you will be working on climate,” he added.

Costa listed a series of “direct” and “indirect” climate effects that EPA needs to address and for which it should continue research. Direct effects include, for example, sea level rise, while indirect effects could include a wide range of phenomena such as greater production of ozone due to increased temperatures. He added his hope that popular opinion would, hopefully, eventually force a reckoning with climate change.

Similarly, Burke warned that “political drivers are really undermining” EPA's science programs for the future, noting “threats to science” during the transition to the Trump administration.

Reinforcing Costa's point about climate policy, Burke said “climate can't be broken out” from other areas and environmental science, saying that it should have an effect on all of the agency's

work.

But EPA late last week removed extensive information on climate policy from its website, reflecting agency Administrator Scott Pruitt's plan to refocus the agency on conventional pollution issues.

Criticizing the climate information removal, John O'Grady, president of the American Federal of Government Employees Council 238 which represents 9,000 EPA employees, said in a statement that, "The book burning has commenced!"

Yet the move is in line with the Trump administration's overall hostility to climate policies, highlighted by White House Office of Management & Budget Director Mick Mulvaney's remarks at a March 16 briefing on the budget where he said, "As to climate change, I think the President was fairly straightforward saying we're not spending money on that anymore. We consider that to be a waste of your money to go out and do that."

Although EPA was largely spared major funding cuts in pending fiscal year 2017 legislation that will fund the government through Sept. 30, it faces significant reductions under Trump's FY18 budget plan. That budget proposal would slash EPA's budget 31 percent from roughly $8.1 billion to $5.7 billion, and the bulk of climate change programs are among those designated for zeroed-out funding.

EPA Research

At the HEI conference, Costa said that despite the apparent step back from climate research, EPA continues to face a range of research priorities in conventional air pollution, such as better understanding the health effects of complex mixtures of pollutants, understanding causality of disease at very low concentrations of pollution, and the role of wildland fires in producing up to 40 percent of the nation's particulate matter pollution.

But he also acknowledged that setting ever-lower national pollution limits -- such as ozone and the five other criteria pollutants regulated under the national ambient air quality standards

(NAAQS) -- may not be the best way to resolve local air pollution problems, as NAAQS edge closer to levels of background pollution that cannot be regulated. “In the current administration, we have to think about justifying” existing NAAQS limits, Costa said.

Meanwhile, Burke, now employed by Johns Hopkins University, warned that “the times are really changing,” and a hostility toward regulation may mean a sea-change in EPA's role in the future. We may be “at the end of acceptance” of command-and-control type regulation, he said, and echoed Costa's concern that “national bright line” pollution limits, such as the NAAQS, may in the future “be too close to background.”

EPA may shift toward providing information for others, such as state and local regulators, rather than crafting federal regulation, Burke said. However, many agency rules, including the NAAQS, are required by law, and unless and until Congress reforms or repeals Clean Air Act programs, EPA's statutory obligations remain.

Seeing a silver lining, however, he suggested this may be an opportunity to end the “Balkanization” of EPA science and policymaking, which now separates into different “silos” based on different media such as air, water and waste. Rather, EPA should embrace a cross-cutting “systems” approach, he said. Under this new vision, EPA would not artificially separate effects in air and water, and would address complex pollutant mixtures found in the real world.

In a new paradigm underpinned by the agency's mission to protect public health, EPA should integrate social, cultural, economic and political factors into its research into the effects of pollution on the public, Burke said.

Budget Cuts

EPA staffer John Vandenberg, during a question and answer session, asked Burke which areas of research EPA should drop in the event of a large budget cut. “What should we stop doing?” he said.

“Stopping should be a scientific decision,” Burke said, calling “shocking” Mulvaney's statement

on climate change efforts no longer being worth funding.

Jonathan Samet, a veteran air quality researcher now with the University of Southern California, and former chair of EPA's Clean Air Scientific Advisory Committee, warned of "the displacement of evidence by belief" in EPA decisionmaking in remarks to HEI, which is a research organization jointly funded by the auto sector and the agency.

Meanwhile, Francesca Dominici of the Harvard School of Public Health, another prominent air quality expert, warned of the effect that anti-scientific opinions in government are having on students, who are put off going into the field. If the current generation of experts cannot train their replacements, "we are going to be toast," she said.

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Think tank petitions EPA against endangerment finding

E&E News PM

By: Hannah Hess

Published: May 2, 2017

A conservative think tank with close ties to the Trump administration is challenging U.S. EPA to revisit the so-called endangerment finding that lets the agency regulate greenhouse gases under the Clean Air Act.

A petition filed yesterday focuses on what the Texas Public Policy Foundation calls a "glaring statutory violation."

"In its rush to regulate greenhouse gases in 2009, the Obama Administration missed an important step. It utterly failed to submit the greenhouse gas endangerment finding to the Science Advisory

Board for peer review, as required by statute, and that violation is fatal to the endangerment finding," said Ted Hadzi-Antich, senior attorney for TPPF's Center for the American Future.

The Austin-based group is representing a coalition of businesses, along with Liberty Packing Co. LLC, a California-based bulk processor of tomato products that relies on natural gas boilers.

It follows at least two separate petitions since President Trump's inauguration urging the new Republican administration to vacate the finding, which underpins carbon dioxide emissions regulations on vehicles, power plants and other sources (*Greenwire*, April 10).

The TPPF document said the past administration's decision to sidestep the Science Advisory Board "stemmed from a desire to impress the community of nations by being among the first to regulate greenhouse gas emissions timed to coincide with the 2009 Copenhagen international climate conference."

EPA's finding points to scientific evidence about the impacts of climate change on events like heat waves, drought and sea-level rise.

Environmentalists have predicted the chances of overturning the finding are "nil," and Administrator Scott Pruitt has reportedly warned in closed-door White House meetings of massive legal hurdles to doing so.

Clean Air Task Force Legal Director Ann Weeks said critics raised the same objection in a 2009 petition for reconsideration, and the U.S. Court of Appeals for the District of Columbia Circuit rejected it. It recognized EPA had not submitted its finding to the Science Advisory Board but declined to say it should have done so.

The court held that "even if EPA [had] violated its mandate by failing to submit the Endangerment Finding to the SAB, Industry Petitioners have not shown that this error was 'of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.'"

The Supreme Court declined to hear challenges to the endangerment finding. "So it would seem that any claim on these grounds is not just late but has been decided," Weeks said in an email.

Frank O'Donnell, president of the advocacy group Clean Air Watch, said EPA's finding was anything but a "rush" to regulate. Even the George W. Bush administration's EPA recommended making the determination, he noted, only to be shot down at the last minute for political reasons.

In an email to E&E News, O'Donnell said about TPPF's take: "That's a ludicrous argument advanced by a so-called think tank underwritten by polluters."

The Clean Air Act specifies areas for which the science advisory panel is supposed to provide input, like criteria and toxic pollutants.

The Science Advisory Board's charter says the objective of the advisory board is to provide independent advice and peer review to EPA's administrator on the scientific and technical aspects of environmental issues.

Certain congressional committees can ask the agency's leadership to have the advisory board provide scientific advice on a particular issue.

"EPA can ask for advice on other matters. EPA is not required to run every broad policy issue past the board," O'Donnell said.

Natural Resources Defense Council Clean Air Director John Walke agreed there is no law requirement to seek a Science Advisory Board peer review.

"Desperate arguments to Trump officials in 2017 do not make sour grapes age any more gracefully; they are still bad whine," Walke said this afternoon in an email.

TPPF, which advocates for a pivot toward more state autonomy on environmental oversight, often pushes regulatory challenges.

TPPF's director of the Armstrong Center for Energy and the Environment, Kathleen Hartnett White, who was once rumored to be in the mix for EPA administrator and a contender to head the White House Council on Environmental Quality, has argued that treating CO2 like a pollutant is damaging to the energy sector (*Greenwire*, Nov. 28, 2016). She advised Trump on the campaign trail.

Pruitt, who sought to unravel the finding as Republican attorney general of Oklahoma, has publicly asserted there is no link between CO2 emissions and climate change, rejecting the consensus of climate scientists.

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Trump's lawyer raises concerns about remaining in Paris climate accord, sources say

POLITICO

By: Andrew Restuccia and Eric Wolff

Published: May 2, 2017

President Donald Trump's top White House lawyer is raising concerns about the legal ramifications of the U.S. remaining in the Paris climate change agreement, according to sources familiar with the discussions — a development that could bode ill for the campaign by several top administration advisers to remain in the landmark accord.

White House counsel Don McGahn raised the concerns during a pair of closed-door meetings over the past week, the sources told POLITICO, although they added that he has not yet made a formal recommendation to the president and his stance isn't set in stone. Trump has said he plans to make a decision in the coming weeks, in what has become a symbolic debate about how far he will push his "America First" agenda despite potential blowback from U.S. allies.

Advocates for withdrawing the U.S. from the pact argue that its terms could somehow interfere with Trump's plans to roll back the Obama administration's domestic climate regulations — even though State Department lawyers strongly argue that's not the case.

Trump's team remains divided over the Paris deal, even after a Thursday meeting of Cabinet secretaries and other advisers and a Monday meeting of administration lawyers. Trump officials could not reach consensus at either meeting, sources said.

The 2015 agreement, which won the backing of 195 nations, achieved a major policy goal of former President Barack Obama by getting countries around the world to make non-binding pledges to rein in their greenhouse gas emissions. Making the agreement legally binding could have required Obama to submit the deal to an extremely unlikely ratification in the Senate.

Chief White House strategist Steve Bannon and EPA Administrator Scott Pruitt support withdrawing, while other advisers, including Ivanka Trump and Secretary of State Rex Tillerson, are said to support remaining.

Opponents of the Paris agreement have made a two-pronged legal case for withdrawing. The first, which Pruitt has raised in recent weeks, argues that staying in the Paris deal creates a legal opening for climate advocates to use the courts to challenge Trump's efforts to undo Obama's climate regulations for power plants. The second suggests that the terms of the Paris agreement don't allow any country to reduce its emissions targets.

McGahn, sources said, raised both of those arguments during the Thursday meeting, and on Monday reiterated the concern that Paris could be cited in court challenges to Trump's efforts to kill Obama's climate rules. McGahn's comments shocked State Department lawyers, who strongly reject both of those contentions, the sources said.

McGahn did not respond to requests for comment. A White House spokesman disputed POLITICO's characterization of McGahn's comments at the meeting, but did not specify what was inaccurate.

Hard-line conservatives are pressuring Trump to withdraw, noting that he promised to "cancel" the agreement during the campaign.

Pruitt first floated the idea of legal risk to the Obama administration's carbon rule for power plants in April. Several outside groups have published memos in recent weeks pushing back on Pruitt's contention. Daniel Bodansky, an Arizona State University law professor who served as a State Department climate coordinator at the end of the Clinton administration, said that under common legal doctrine, a court would be unlikely to take the Paris deal into account on a challenge to a domestic policy.

Meanwhile, as news of the administration's internal debate about the Paris deal spreads, environmental groups and supporters of the agreement have taken the unusual step of publicly defending the United States' right to weaken its climate target. The Paris agreement was written to be non-binding, they argue. And while its intent was to enable countries to create more stringent carbon reductions, there's nothing in it to prevent backsliding.

The Sierra Club, which might otherwise be expected to challenge U.S. action to lower its commitments under Paris, indicated in a recent internal memo obtained by POLITICO that it likely wouldn't win a court challenge.

"[I]t would be extremely difficult to prevail on the merits" if the group tried to sue the administration to prevent it from weakening its domestic climate change pledge or quickly withdrawing from the deal, the memo says.

In interviews with POLITICO, international diplomats said it was ridiculous to argue that countries can't weaken their domestic climate plans, noting that the deal was specifically written to provide flexibility to countries at the request of the United States. Obama administration officials objected to efforts to insert legally binding language requiring countries to increase their

ambition over time, officials familiar with the issue said.

Instead, the text says a country “may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition.” In the parlance of international negotiations, “may” suggests that countries have a choice. “Shall,” on the other hand, suggests a legal obligation.

European officials have had limited direct conversations with the White House over the Paris deal. But they have quietly tried to make the case that the benefits of remaining far outweigh the risks.

The officials, along with U.S. defenders of the Paris deal, worry that the international blowback of withdrawing is not getting enough attention from the White House.

“Legally and economically, the United States would be much more vulnerable outside of Paris than in," one European official told POLITICO. "Being outside a major multilateral environmental agreement like the Paris agreement leaves a country more vulnerable to trade-related measures from countries that are inside the agreement."

The official added that there would be a "very, very sharp expression of disappointment" from Europe if the United States pulls out, adding that there would be political and diplomatic fallout that would be felt at the upcoming G-7 and G-20 meetings and for many years to come.

"The U.S will once again by isolated and struggling against the pull of where the rest of the major economies want to move," the official said.

The administration could end up facing the kind of fierce criticism that President George W. Bush saw when he refused to back the Kyoto Protocol, even though the U.S. signed the agreement in 1998 when Bill Clinton was president.

Trump "will piss off every single country in the world" if he withdraws, said an international official who was closely involved in the negotiation over the text of the Paris deal. "It will haunt the administration in every aspect of its international diplomacy."

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In the Trump White House, the momentum has turned against the Paris climate agreement

The Washington Post

By: Juliet Eilperin

Published: May 2, 2017

Foes of the Paris climate agreement have gained the upper hand in the ongoing White House debate over whether the U.S. should pull out of the historic pact, according to participants in the discussions and those briefed on the deliberations, although President Trump has yet to make a final decision.

Senior administration officials have met twice since Thursday to discuss whether the United States should abandon the U.N. accord struck in December 2015, under which the United States pledged to cut its greenhouse gas emissions 26 percent to 28 percent below 2005 levels by 2025.

The president's aides remain divided over the international and domestic legal implications of remaining party to the agreement, which has provided a critical political opening for those pushing for an exit.

On Thursday several Cabinet members — including Environmental Protection Agency Administrator Scott Pruitt, who's called for exiting the accord, Energy Secretary Rick Perry, who wants it renegotiated, and Secretary of State Rex Tillerson, who advocates remaining a party to it — met with top White House advisers, including Trump's daughter Ivanka Trump and

her husband, Jared Kushner, and Chief of Staff Reince Priebus. Both Ivanka Trump and Kushner advocate remaining part of the U.N. Framework Convention on Climate Change, even though the president has repeatedly criticized the global warming deal.

During that meeting, according to several people who spoke on the condition of anonymity to discuss internal deliberations, White House counsel Don McGahn informed participants that the United States could not remain in the agreement and lower the level of carbon cuts it would make by 2025.

The administration is working to unravel many Obama-era policies underpinning that pledge, and the economic consulting firm Rhodium Group has estimated that the elimination of those policies would mean the United States would cut its emissions by 14 percent by 2025 compared with 21 percent if they remained in place.

This interpretation represented a change from the White House counsel's earlier analysis and is at odds with the State Department's view of the agreement.

Susan Biniaz, who served as the State Department's lead climate lawyer from 1989 until earlier this year, said in an interview Tuesday that the agreement reached by nearly 200 nations in Paris allows for countries to alter their commitments in either direction.

"The Paris agreement provides for contributions to be nationally determined and it encourages countries, if they decide to change their targets, to make them more ambitious," Biniaz said. "But it doesn't legally prohibit them from changing them in another direction."

Ivanka Trump urged White House staff secretary Rob Porter to convene a second meeting Monday with lawyers from both the White House and the State Department. That session addressed the question of America's obligations under the 2015 deal as well as whether remaining in the agreement would make it more difficult for the administration to legally defend the changes it was making to the federal government's existing climate policies, but it did not reach a final decision. Pruitt, who is spearheading the effort to rewrite several Obama-era rules aimed at curbing greenhouse gas emissions, has argued that exiting the agreement will make it easier to fend off the numerous legal lawsuits he will face in the months ahead.

At a rally with supporters Saturday, Trump said he would make a "big decision" on Paris within the next two weeks and vowed to end "a broken system of global plunder at American expense."

Administration advisers on both sides of the political spectrum, however, emphasized that the president himself would decide what path to pursue when it came to the climate agreement.

"In the end, President Trump will make the final decision, regardless of where the staff conversations end up," Thomas J. Pyle, who heads the conservative Institute for Energy Research and led the Trump transition team for the Energy Department, said in an email. "The environmental lobby is going to cause litigation problems on nearly every aspect of President Trump's energy and environmental agenda whether or not the administration stays in the Paris Agreement. Staying in Paris only gives them another target to shoot at."

But Paul Bledsoe, who served as a White House climate adviser under Bill Clinton and is now a lecturer at American University's Center for Environmental Policy, warned that the administration might face serious pushback from abroad if Trump seeks to withdraw from the agreement.

"The Trump team seems oblivious to the fact that climate protection is now viewed by leading allies and nations around the world as a key measure of moral and diplomatic standing," Bledsoe said in an email. "The U.S. would be risking pariah status on the international stage by withdrawing from Paris, and even a fig leaf approach of technically staying in the agreement while ignoring most of its provisions would be better than pulling out altogether."

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UN Climate Talks Leader to Trump: Don't 'Abandon the Field of Play'

Bloomberg BNA

By: Murray Griffin

Published: May 3, 2017

The incoming president of the 2017 United Nations climate talks implored U.S. President Donald Trump to keep the world's second-largest greenhouse gas emitter as a participant in the global Paris Agreement to fight climate change.

"The world needs more teamwork on climate change right now than ever before," Fiji Prime Minister Frank Bainimarama said May 2 at a carbon conference in Melbourne, Australia—his first major speech in his role as incoming president. "We can't have one of our best performers abandon the field of play."

Bainimarama said he had written to Trump urging him to "continue to take a leadership role as we confront undoubtedly the greatest challenge of our age."

"We must preserve at all costs the historic agreement that was reached in Paris in 2015," Bainimarama said. "The Paris Agreement must be implemented in full and the groundwork laid for even more ambitious action. ... That means every nation fulfilling the pledges they made in Paris and demonstrating an unwavering commitment to see this process through."

Trump's Decision

During his campaign for president, Trump called climate change a hoax and vowed to withdraw the U.S.—which trails only China among the world's greenhouse-gas emitters—from the Paris climate accord. Trump has yet to announce a decision as his administration remains divided over U.S. action.

But even if the U.S. remains in the Paris deal, it's unclear what role the country would play in the coming years. Trump has directed the Environmental Protection Agency to roll back carbon dioxide limits for power plants, the heart of the country's pledge to reduce its emissions by at least 26 percent from 2005 levels by 2025.

Fiji this year holds the presidency of the U.N. climate negotiations, taking the reins from

Morocco, which held it in 2016. At the 23rd conference of parties to the U.N. Framework Convention on Climate Change in November in Bonn, Germany, negotiators will continue work on how nearly 200 signatory nations will implement the Paris Agreement.

Private Sector

But if governments fail to take decisive action, Bainimarama said the role of businesses and citizens becomes even more important.

"When governments fail to lead, the private sector must do so, as is happening already in America," he said.

"When the call to action goes unheeded, civil society must mobilize ordinary people to turn up the pressure," he said. "And where politicians deny the magnitude of the challenge that we face, men and women must use their power at the ballot box to replace them."

Bainimarama called for a "grand coalition of governments, civil society and the private sector to defend and uphold the Paris Agreement."

'Frighteningly Real' Climate Change

The leader of the small Pacific Island nation, which in February 2016 was hit by the most severe tropical cyclone ever to reach its shores, also warned there was "no longer room and certainly no longer time to question the science" of climate change.

The best scientific advice makes it clear that climate change is "frighteningly real," he said, noting that the many of the world's coral reefs "may be too far gone to be saved" and agricultural yields were also being affected.

The Fijian leader also spoke firsthand of the impact of extreme weather, noting that Tropical Cyclone Winston "had wiped out one third of our GDP," even though it spared the main tourist areas on which the country's economy depends.

Fiji Offers to Accept Climate Refugees

Key tasks for this year in the U.N. process include advancing the underpinning rules of the Paris Agreement and laying the groundwork for countries to make more ambitious commitments through a review process that will start in 2018, Bainimarama said.

He said citizens of Fiji were "shouldering our share of the burden of finding new homes for those who are displaced by climate change."

"We have offered to give permanent refuge to two of our nearest neighbors, Kiribati and Tuvalu, in the event that they are submerged altogether," he said of the small Pacific island nations.

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McCarthy slams Trump's 'unprecedented' webpage overhaul

Greenwire

By: Hannah Hess

Published: May 2, 2017

Former U.S. EPA Administrator Gina McCarthy criticized the Trump administration yesterday for removing "years" of climate change data from the agency's public webpage.

"This is a wholesale wiping out of historical record of what this agency has been doing with public dollars for decades, not just the past eight years," McCarthy said, appearing on MSNBC's "The Rachel Maddow Show."

"This is unprecedented in terms of the scope of information that's been taken down. Information that's public information. People have a right to be able to access it, and no president has ever done this before," McCarthy said.

On Friday, the eve of President Trump's 100th day in office, the administration removed most climate change information from EPA's website, saying in a news release that language on the website is "undergoing changes that reflect the agency's new direction under President Donald Trump and Administrator Scott Pruitt."

The agency has made archived information available to the public on a snapshot page, showing content from the final day of the Obama administration.

"If former Administrator McCarthy had visited the website, she would have seen that we made it very easy for the public to view the properly archived content about which she is concerned," EPA spokesman J.P. Freire said in an email to E&E News.

"America's rich history of combining environmental stewardship and economic prosperity informs our focus on reducing job-killing regulatory burdens," Freire wrote. "It's a history worth being proud of."

The first page to be updated reflected Trump's March 28 executive order that called for a review of EPA's Clean Power Plan. EPA said language associated with the Clean Power Plan, written by the last administration, "is out of date."

Content related to climate and regulation is also being reviewed, according to the agency.

As late as this morning, the Spanish-language version of the webpage remained intact with climate change information. However, EPA wiped the site to reflect the review sometime before noon today.

McCarthy speculated that the timing of the data removal had to do with the Peoples Climate March, a demonstration that brought more than 150,000 people to the White House grounds to protest Trump's policies (*E&E Daily*, May 1).

Activists and EPA staff have been especially concerned about potential changes at the agency since Trump's first day in office.

Reports that nonregulatory information could be scrubbed from EPA's website have motivated hackers to capture and code federal data sets to remote servers (*Greenwire*, Feb. 20).

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EPA asks what rules to cut, gets earful about dirty water

Associated Press

By: Michael Biesecker

Published: May 2, 2017

The Trump administration got an earful Tuesday from people who say federal rules limiting air and water pollution aren't tough enough, even as it was seeking suggestions about what environmental regulations it should gut.

The Environmental Protection Agency held a three-hour "virtual listening session" on Tuesday to collect public comments by phone about which clean water regulations should be targeted for repeal, replacement or modification. The call was part of the agency's response to President Donald Trump's order to get rid of regulations that are burdensome to business and industry.

Both the phone-in session and the nearly 6,000 written comments submitted so far and published on a federal website were dominated by those staunchly opposed to the planned regulatory rollback. Many identified themselves as being affiliated with environmental groups. Others said they were taxpayers worried about maintaining safe sources of drinking water.

"I actually enjoy breathing clean air and drinking clean water and would find it quite burdensome not to," said Emily Key, who identified herself as a citizen worried about what cancer-causing chemicals children may be exposed to.

Some said they rejected Trump's argument that strong environmental regulations impede job creation.

"I'm from Pittsburgh, where our skies were dark at noon and people changed their shirts at lunch because they were filthy from the smoke from the mills," Doug Blair told EPA. "I oppose any rollback of environmental protections premised on the 'jobs vs. the environment' dilemma. We can have both."

Since his appointment by Trump, EPA Administrator Scott Pruitt has been accepting confidential petitions from lawyers and lobbyists for businesses asking him to eliminate regulations affecting their profits. Typically, those petitions have only been made public after Pruitt intercedes on their behalf.

An example came last month when Pruitt acted against the recommendations of his own agency's scientists to reverse an Obama-era effort to bar the use of a widely-used pesticide on fruits and vegetables. Recent peer-reviewed studies found that even tiny levels of exposure of Dow Chemical's chlorpyrifos could hinder the development of children's brains. Pruitt has also moved to kill or delay regulations limiting toxic air emissions and water pollution from coal fired power plants.

In his prior job as Oklahoma's attorney general, Pruitt often aligned himself in legal disputes with the interests of executives and corporations who supported his state campaigns. He filed

more than a dozen lawsuits seeking to overturn some of the same regulations he is now charged with enforcing.

During Tuesday's listen session, only a handful of callers said EPA regulations were too strict. The operator of a paper mill in Washington said new rules reducing the allowed limit of cancer-causing PCBs dumped into in rivers put his company at risk. The manager of a municipal water plant suggested that the agency start accepting required reports electronically, rather than just fax.

But the overwhelming majority of those who called or wrote to EPA urged the agency to strengthen its enforcement measures to hold polluters accountable.

"Even when companies are forced to pay for the destruction they cause, the amounts they are fined pale in comparison to the profits they make from breaking the rules," said Jamie Abelson from Chicago. "EPA must fight to maintain any environmental regulations that protect the health of American workers, communities and ecosystems."

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Jeers, cheers as EPA hosts webinar on rule rollbacks

E&E News PM

By: Ariel Wittenberg

Published: May 2, 2017

Environmentalists rebuked the Trump administration's assertion today about the need to roll back U.S. EPA regulations during a webinar sponsored by the agency's Office of Water.

More than 600 listeners tuned into the three-hour session, called "Feedback on Reducing Regulatory Burden," which sought suggestions on water-related regulations that need to be rescinded or revised. Participants could comment either in an online chat or on the phone.

The EPA webinar follows President Trump's February executive order that called on agencies to set up deregulation panels that include a designated policy officer and regulatory reform officer.

Most comments today came from environmentalists who took issue with EPA's assertion that it was looking for regulations to roll back.

"I strongly object to the premise behind the executive order and this whole process," said Andrew Grinberg, a campaigns manager for Clean Water Action. "Regulations are not burdens. Regulations protect our water and our health."

Jon Devine, a senior attorney at the Natural Resources Defense Council, said, "Please don't sacrifice our water through a reckless and unfounded search for burdensome regulations."

Many argued that EPA should first identify regulations it wants to change and then seek comments, allowing people to evaluate proposals and assess current rules.

Mitch Reid of the Alabama Rivers Alliance wrote, "Frankly this whole thing feels like a Kangaroo court to allow [EPA Administrator Scott] Pruitt to enact changes that he has already decided on."

Industry representatives criticized regulations related to Clean Water Act permitting and wastewater standards for steam-power plants.

Jane Gerdes of the Peoria, Ill., Public Works Department said that permit requirements for combined sewage overflows don't allow municipalities enough flexibility to update projects to account for best management practices. She also argued that municipalities feel more of a regulatory burden because of the cost of compliance, something that could be changed with more federal funding.

"We like clean water, and we know the state of Illinois likes clean water and the EPA likes clean water — everyone does," she said. "But small communities are very challenged to pay for unfunded mandates."

That point was echoed by Julia Anastasio, executive director of the Association of Clean Water Administrators, who said EPA needs to "preserve or enhance flexibility for states to implement the Clean Water Act."

Vicky Sullivan of the American Coalition for Clean Coal Electricity applauded EPA's decision to delay deadlines on a 2015 regulation aimed at reducing toxic metals in power plants' wastewater (*Greenwire*, March 28).

"These regulations have already have a severe impact on coal-fired power plants and have been cited by plant owners as reasons for plant retirements," she said.

While industry officials made fewer comments than did environmental advocates, some indicated they plan to formally comment on Trump's executive order before the May 15 deadline.

Many participants also left the three-hour webinar early due to technical difficulties at the beginning of the program, such as the inability to hear some callers.

The problems provoked ridicule from environmentalists.

"One wonders whether rolling back regulations that protect our health and environment makes sense, when it seems unlikely that EPA can effectively enforce the regulations we currently have, considering they can't organize a conference call," South River Federation's Jesse Iliff wrote.

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EPA Gets Earful at Listening Session on Toxics Rule Changes

Bloomberg BNA

By: Tiffany Stecker and Sam Pearson

Published: May 2, 2017

Yolanda Ferguson and her family drove 1,000 miles from Mississippi's Gulf Coast to plead for EPA not to roll back the nation's chemicals law.

Ferguson is the wife of a netmaker, who she said became sick from exposure to corexit, a chemical dispersant used for the cleanup of the 2010 British Petroleum oil spill. He can no longer work to make and repair the trawls for commercial fishing boats because of his illness, Ferguson said. His weight plummeted from 260 pounds to 120 pounds. He shakes uncontrollably and urinates blood.

When she sought more information on the dispersant, Ferguson said she was told it was confidential business information. With money raised from collecting cans, she came to Washington, D.C., to speak at the EPA's listening session on regulatory reform, in which members of the public can weigh in on President Donald Trump's executive order to reverse regulations.

The agency's Office of Pollution Prevention and Toxics held a hearing May 1 on last year's reforms of the Toxic Substances Control Act, the Toxic Release Inventory, and rules on formaldehyde, asbestos and nanoscale materials.

"I'm concerned they are going to change that up and make it all toxic again," Ferguson told approximately 50 people at the session, with many more listening remotely. "I want them to not take the Lautenberg Act away," she later told Bloomberg BNA.

The Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. No. 114-182) amended the 1976 TSCA to require the EPA to screen new chemicals and evaluate the safety of existing chemicals on the market. It also makes it harder for companies to hide chemical

information that may be considered confidential.

Ferguson, a short, fast-talking Southerner, came with her 17-year-old daughter, who had blue hair and wore a Batman shirt. The two represented a rare show of private citizens among the list of industry and environmental group representatives slated to speak at the session.

Pruitt 'Like Steinbrenner in Charge of the Red Sox'

President Trump's Executive Order 1377, requires each agency to create a Regulatory Reform Task Force to evaluate existing regulations.

Some speakers questioned the exercise of collecting comments to remove rulemakings, rather than adding them. Others criticized the appointment of EPA Administrator Scott Pruitt, who sued the agency numerous times before heading it.

Pruitt at the EPA "is like putting George Steinbrenner and his minions in charge of the Boston Red Sox," said Daniel Rosenberg, a senior attorney with the Natural Resources Defense Council, a reference to the late New York Yankees baseball team owner and the rivalry with the Boston baseball team.

Industry representatives were supportive, but cautious in encouraging the EPA's continued work on regulations.

"Please keep this moving forward, we all support it," said Jim Cooper, a senior petrochemical adviser for the American Fuels and Petrochemical Manufacturers. "But do it right."

"Things have to be done right so we don't have to revisit them five years from now," he added, citing a negotiated rulemaking on inorganic byproducts that EPA announced in Dec. 2016. The new rule has to encourage recycling of chemicals, he said.

Nanochemicals, Formaldehyde at Forefront

President Barack Obama's administration rushed in several final rules concerning chemicals, including one Dec. 12, 2016, to lower formaldehyde emissions in composite wood. The push also involved a Jan. 12 rule requiring companies to report nanochemicals for the first time.

Several trade associations balked at the strain the nanomaterials rule (RIN:2070-AJ54) would impose on manufacturers, with Raleigh Davis of the American Coatings Associations citing a $1.5 million price tag for industry. The rule is set to go into effect on May 12, although makers of the miniscule materials have pushed for a delay. Nanotechnology is prized for its industrial and biomedical applications, but those chemicals have raised concerns because they are more readily absorbed by the human body.

The EPA underestimated the burden for companies when it assumed it would take 175 hours to gather information for reporting on nanomaterials, said Irene Hantman, a chemicals attorney at Verdant Law PLLC in Washington, D.C., told the EPA.

The effective date for EPA's rule on formaldehyde emissions (RIN:2070-AJ44) has been delayed until May 22. It is similar to a California Air Resources Board regulation that has been on the books since 2008. But unlike the California rule, it does not exempt all makers of laminated wood products. Some laminated wood includes glue with high concentrations of formaldehyde, which raises emissions. These manufacturers have seven years to meet the emissions limits.

Niche corners of the construction industry said that the rule would create ripple effects. Kitchen Cabinet Manufacturers Association CEO Betsy Natz said it would force cabinet distributors to recall products if the manufacturer failed to pass the emissions tests, a move that could harm a company's reputation, trigger litigation and cause disruptions in the supply chain.

"It makes no sense to apply it to finished goods," she said.

But Tom Neltner, chemicals policy director for the Environmental Defense Fund, said a delay was inappropriate for such a new regulation.

"Let's not take our time to get this rule implemented," he said.

Lead Program at Risk

Construction contractors, training companies and public health groups also weighed in on EPA's lead renovation, repair and painting rule. Under Trump's budget request, the EPA would eliminate its lead risk reduction program, cut $2.3 million from the Office of Children's Health Protection and more than $82 million in cuts to research at the Office of Research and Development.

EPA issued the lead renovation regulation in 2008 and amended it six times since. The rule requires contractors to be trained in lead abatement requirements and have the training renewed every five years.

Zachary Rose, the CEO and founder of Zack Academy, said contractors who take lead certification courses sometimes balk at first but often find them valuable. He said changing the requirement that they complete courses would be an "absolute disaster" for families and homeowners.

Brian McCracken, the president of All American Painting Plus Inc. in Reston, Va., said training companies were protecting "their own self interests."

Lead exposure is "not our problem," McCracken said. "It's a personal responsibility for the homeowner. When you buy a home, you need to know the hazards of it."

Neltner called on the agency to toughen its lead regulations, not relax them.

Several participants also asked the EPA not to clamp down on the 1986 Asbestos Hazard

Emergency Response Act, which requires local education agencies to makes detailed asbestos emergency plans to prevent children's exposure to the mineral.

Cutting certification requirements would only hinder efforts to remove absestos in old buildings, said Stephanie Isaacson, a businesswoman who owns properties with asbestos.

"If we take away the need to inspect," she said, "it doesn't make any sense, especially since it doesn't create jobs to take it away."

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FY17 Spending Deal Warns EPA Against Overhaul Without Congress' Input

Inside EPA

By: Doug Obey

Published: May 2, 2017

The pending fiscal year 2017 spending deal that lawmakers are slated to approve this week warns EPA that Congress controls the purse strings related to any major reorganization, workforce overhaul or downsizing at the agency, putting Administrator Scott Pruitt and the Trump administration on notice not to radically overhaul EPA in FY18 absent consultation.

One environmentalist says the language about EPA reorganization, as well as the broader spending bill that limited EPA cuts to just 1 percent, show that Congress has concerns about preliminary Trump administration plans to cut the agency's budget by 31 percent, slash its workforce by 25 percent, trim back an array of programs and reorganize major headquarters and regional offices.

"EPA staff should be heartened that Democrats seemed to have their back not just on bottom line

numbers but also with a very pointed warning to Pruitt not to circumvent Congress's intent" with respect to the agency, the source says.

But despite the warning, the source says that there is still "an enormous threat" to the agency in FY18 from Pruitt and the Trump administration's intentions regarding EPA, and that nearly flat funding for EPA in FY17 is only a "good start . . . the battle is just beginning."

Lawmakers' warning over EPA downsizing and reorganization is included in one portion of an explanatory statement accompanying the FY17 spending legislation, which also offers a series of other prescriptive requirements on the agency, calling for more regulatory flexibility in some areas and seeking updates from the agency on others.

One portion of the explanatory statement limits EPA from reprogramming or shifting funds for purposes other than those intended by more than $1 million, and calls for agency compliance with various reprogramming directives. And it notes that those directives apply to a host of actions, including "proposed reorganizations, workforce restructure, reshaping, transfer of functions, or downsizing, especially those of significant national or regional importance, and include closures, consolidations, and relocations of offices, facilities and laboratories."

The directive also specifies that "the Agency may not use any amount of deobligated funds to initiate a new program, office, or initiative, without the prior approval of the Committees."

The language suggests that many lawmakers wants to be kept in the loop in both FY17 and FY18 on any major restructuring by Pruitt and Trump administration officials at the agency, potentially providing an opening for the agency's defenders on Capitol Hill to mobilize support for key agency programs or offices.

Signs of such opposition are already evident, such as when a bipartisan group of Michigan lawmakers mobilized against suggestions that EPA was considering shuttering its Region 5 office in Chicago and merging its functions into its Region 7 office near Kansas City.

The environmentalist says Hill lawmakers in their limits on "reprogramming" appear to go out of

their way to respond to reports of recent preliminary plans to downsize the agency or eliminate some regional offices, even though some degree of reprogramming limitation in spending bills is always routine. The source calls this unusually pointed, specific language warning the agency not to "reprogram" appropriated funds for purposes not explicitly outlined by Congress.

Workforce 'Priority'

While the spending deal also includes recissions of funds already provided to the agency in a number of areas, the explanatory statement directs the agency to first apply those cuts across the workforce to reflect "routine attrition," while opposing buyouts and other workforce reduction programs as a way to apply the cuts.

"The Committees understand that the Agency routinely makes funding payroll requirements a top priority, and the committees expect the agency will continue to do so as it executes its fiscal year 2017 appropriations and applies the rescissions. The Committees do not expect the Agency will undertake adverse personnel actions or incentive programs to comply with the rescissions," the statement says.

That language could make it difficult for the administration to ramp up plans for voluntary buyouts and early retirements as a way to cut EPA's workforce.

The statement also bars EPA from cutting funds from a series of high-priority programs and accounts, including geographic programs, the National Estuary Program, and priorities in the Science & Technology and Environmental Programs and Management accounts.

The language in the explanatory statement is part of the broader spending agreement, expected to be approved and enacted this week, that imposes a 1 percent cut to the agency's budget in FY17, postponing at least for now draconian proposed budget reductions at the agency that the Trump administration had sought.

The environmentalist characterizes the reprogramming language as one part of an early win by EPA defenders on Capitol Hill, particularly congressional Democrats, as lawmakers prepare for a battle over FY18.

But some Republicans have also indicated support for preserving EPA's budget. For example, Rep. Tom Cole (R-OK), a veteran GOP lawmaker, suggested he too is opposed to cuts on the order of those sought by the White House.

"In the EPA's case their funding has been reduced by over 20 percent since 2011 anyway. They are operating at 1989 staffing levels. So you really want to be sure you are not cutting the meat and muscle with the fat," Cold told *Inside EPA* Feb. 28.

Policy Provisions

The explanatory statement in the budget deal goes well beyond the instructions related to reprogramming to offer a grab bag of other directives to EPA on issues ranging from regulatory flexibility to updating Congress on agency activities and protecting certain programs.

For example, one directive orders EPA to report to Congress within 90 days on "administrative options" enabling states to enter into cooperative agreements providing "regulatory relief" under potentially overlapping ozone standards. The statement also calls for EPA to contract with the National Academy of Sciences to review any 2017 release of a revised draft risk assessment of formaldehyde from EPA's Integrated Risk Information System program.

Congress also requires EPA to keep Congress apprised of its compliance with recent court orders requiring evaluation of potential job loss from Clean Air Act regulations and a directive for EPA to establish "as expeditiously as is practicable" streamlined procedures for prompt approval of state programs regulating coal combustion residuals.

The expiratory statement also wades into EPA regulations related to stratospheric ozone protection, directing the agency to "consider harmonizing the status of any previously approved refrigerant or foam blowing agent with other domestic and international programs for refrigeration and commercial air conditioning applications, and corresponding deadlines for military, space and aeronautics related applications."

With respect to toxic chemicals, the statement notes that language in the agreement enables EPA to collect and spend new fees to conduct chemical reviews under the newly revised Toxic Substances Control Act (TSCA), beginning in FY17, though it cautions EPA to ensure "that new fee collections will supplement, not supplant, appropriated resources for these activities."

While states have expressed concerns that EPA's budget would slash grants to states, the statement references language providing $30 million for "targeted air shed grants" to reduce air pollution in nonattainment areas. The report requires the grants to be distributed competitively to nonattainment areas ranked as the top five most polluted with respect to ozone and particulate matter. That represents an increase of $10 million from the $20 million provided for the grants in 2016.

The bill, however, rescinds $61.1 million in "unobligated balances" from the State and Tribal Assistant Grants Account. "The agency shall calculate the requisite percent reduction necessary to rescind such amounts from new obligation on authority and applied across program areas by formula. The Agency is directed to submit, as part of the operating plan, detail on the application of such rescissions by program project area."

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Senate Dems press Pruitt over alleged conflict on ozone

E&E News PM

By: Sean Reilly

Published: May 2, 2017

Senate Democrats asked U.S. EPA Administrator Scott Pruitt today to explain how he's dealing with another alleged conflict of interest — this time in regard to litigation over the agency's 2015 ground-level ozone standard.

The letter from Sens. Cory Booker of New Jersey, Tom Carper of Delaware, Kamala Harris of California, Ed Markey of Massachusetts and Sheldon Whitehouse of Rhode Island asks whether Pruitt has recused himself from EPA's review of the 70-parts-per-billion standard, made public last month when the agency won an open-ended delay in the litigation to revisit its position (*Greenwire*, April 12).

Before becoming EPA chief in February, Pruitt had joined in the legal challenges to the 70 ppb benchmark as Oklahoma's attorney general.

Under his EPA ethics agreement, Pruitt said he would seek authorization to participate in matters involving Oklahoma, according to Carper's letter. In response to written questions during his Senate confirmation hearing, he also said he would recuse himself from litigation on which he worked as attorney general, unless he received permission from federal ethics officials.

Among other questions posed in their letter, Carper, the ranking member of the Senate Environment and Public Works Committee, and the other four Democrats ask whether Pruitt has sought and received such authorization. If so, they ask for the written response from EPA's designated ethics official. If he is not recused from the ozone litigation but has not received authorization to participate, "please explain why you have not," they wrote.

EPA didn't reply to an emailed request for comment this afternoon.

The letter sets a May 15 deadline for a response. In the last two months, Carper and other Democrats have requested similar details on Pruitt's handling of legal challenges to the Clean Power Plan and the Waters of the United States rule (*E&E News PM*, April 10).

EPA has so far not responded to either of those earlier inquiries, a Carper spokeswoman said.

Ozone, the main ingredient in smog, is a lung irritant that can help trigger asthma attacks and worsen emphysema symptoms. Under the Obama administration, EPA tightened the standard from 75 ppb to 70 ppb in October 2015 on the grounds that the stricter limit was needed to protect public health with an adequate margin of safety.

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Industry Seeks To Block, Alter EPA's IRIS Formaldehyde Risk Analysis

Inside EPA

By: Maria Hegstad

Published: May 2, 2017

The American Chemistry Council (ACC) is touting new findings and a new award for a 2015 study that raise doubts about EPA and other agencies' conclusions that exposure to formaldehyde can cause leukemias, as part of the industry group's latest efforts to alter EPA's analysis, while other trade groups seek to end it entirely.

The new study, which ACC funded, re-analyzes raw data from a 2010 study that EPA and other agencies referenced in their findings that formaldehyde could cause leukemias, as well as other, better known cancer types. The *Journal of Critical Reviews in Toxicology* published the new study on its website May 2.

The 2010 study, by University of California-Berkeley professor Luoping Zhang and colleagues, compared blood samples of Chinese workers exposed to formaldehyde with other unexposed Chinese factory workers, and concluded that chromosomal abnormalities in the exposed workers' cells were indicative of leukemia. But the new study, authored by Ramboll Environ consultant Kenneth Mundt and colleagues, points to flaws in the Zhang study's methods that Mundt and colleagues say should lead EPA and other agencies to alter their conclusions.

"While Zhang et al. (2010) proposed that formaldehyde exposure leads to aneuploidy, the results from the current analyses indicate that exogenous formaldehyde exposure is not associated with the aneuploidies examined," the study concludes. Aneuploidy occurs when there are too few or too may chromosomes in a cell. Human cells normally contain exactly 46 chromosomes.

"Therefore, while Zhang et al. (2010) has been cited heavily to support the biological plausibility of formaldehyde as a cause of human leukemia, fuller analysis of the original study data verifies methodological limitations with respect to monosomy 7 and trisomy 8, while demonstrating no association between individual exposure levels and several blood parameters among those occupationally exposed to formaldehyde."

Mundt and colleagues acquired some of Zhang's raw data from the National Cancer Institute (NCI) through a Freedom of Information Act request. The paper indicates that this raw data, "the mean formaldehyde estimate for each exposed worker," is not included in the Zhang study.

ACC and the study authors say its findings should lead to changes in conclusions by the International Agency for Research on Cancer (IARC) and a 2010 draft EPA Integrated Risk Information System (IRIS) assessment of formaldehyde, both of which suggested a causal link between formaldehyde exposure and leukemia.

The National Academy of Sciences (NAS) reviewed the draft IRIS assessment, and in 2011 released a critical report on the assessment and the IRIS program's approaches more broadly. EPA has since sought to upgrade the IRIS program, and won praise for its efforts in a 2014 NAS review. But EPA has also yet to release a new draft assessment of formaldehyde.

'Unwarranted Outcomes'

"IARC's interpretation of the Zhang et al. (2010) study and the implications on the formaldehyde hazard classification should be reconsidered in light of the fuller evaluation of all of these data, and the updated EPA IRIS report should reflect the limited inferential value of the Zhang et al. (2010) study . . . until the scientific validity of each can be demonstrated," the Mundt study says.

ACC in a May 2 press statement says the "newly published reanalysis of raw data from a study widely used by chemical assessment agencies to set hazard assessments for formaldehyde shows no link between formaldehyde exposure and leukemia."

The statement also quotes Kimberly White, senior director of ACC's Formaldehyde Panel. "The findings in this reanalysis are important because they call into question the validity of all these recent formaldehyde assessments," White said. "The original paper failed to meet its own data quality standards and the scientific standard of reproducibility. Relying on it consequently led to unsubstantiated regulatory decisions and unwarranted outcomes."

ACC in a separate May 2 press release touts the presentation of the Kammer Merit in Authorship Award to a 2015 study by University of California, San Diego medical school professor Harvey Checkoway, regarding whether formaldehyde exposure can cause leukemia. This study, funded by ACC and co-authored by Mundt, reanalyzes raw data from an NCI cohort of formaldehyde-exposed workers. A 2009 epidemiology study of this data, by Laura Beane-Freeman and other NCI researchers, had also supported the conclusion that formaldehyde exposure could cause a certain type of leukemia, acute myeloid leukemia (AML).

The 2015 study, known as Checkoway et al, concludes that "Our re-analysis of the data from the NCI cohort study of workers in the formaldehyde industries provides no support for the hypothesis that formaldehyde causes AML, the [lymphohematopoietic malignancies] of greatest prior concern."

The newest study represents the latest industry-funded efforts to acquire and analyze raw data from two studies relied on by EPA, IARC and other agencies to conclude that formaldehyde exposure can cause leukemias. Several years ago, one industry source explained that while most would agree that exposure to formaldehyde can cause nasal cancer, the leukemia finding was more concerning to industries that make and use formaldehyde because of the much higher prevalence and risk associated with leukemia.

Ending IRIS

The study's publication comes as Congress considers the fiscal year 2017 omnibus appropriations bill, which has attached report language directing EPA, should it seek to release a new draft formaldehyde assessment this fiscal year, to contract with the NAS "to verify the recommendations from the previous NAS report of 2011 have been fully resolved scientifically."

Meanwhile, other industry groups are seeking to stop all formaldehyde analyses, and shutter the

IRIS program altogether -- strongly backing Trump administration calls to end the IRIS program in FY18.

In recent comments to the Commerce Department that preview recommendations the industry is likely to make to EPA as part of its broad review of agency programs, the American Forest & Paper Association (AFPA) calls for "a stop on all formaldehyde IRIS program activities, including any intra- or interagency reviews or the release of any draft or final assessments. EPA should convene other experts within the Executive Branch to gain an objective perspective on formaldehyde science, and EPA's findings and conclusions should be based on the weight of the evidence and use the biological data to provide a basis for a threshold response for all health endpoints," the group says.

More broadly, AFPA seeks "a stop on all current 2017 IRIS program activities," adding that "EPA should eliminate the IRIS program for 2018 and beyond and reassign its responsibilities to EPA's program offices."

The group's comments -- submitted to the Commerce Department in response to President Donald Trump's call to streamline permitting -- support EPA plans, detailed in a March 21 memo from acting chief financial officer David Bloom, that call for eliminating the IRIS program.

The influential but often controversial program, housed within the agency's Office of Research and Development, has drawn fire for its often strict assessments of chemicals' risks and EPA's usage of its dose-response analyses for setting standards and other decisionmaking.

Bloom's memo indicates that the administration is seeking to drop the research office's human health risk assessment portfolio by $5.6 million and 105 full time equivalent employees (FTE) in the FY18 budget. "This change reflects the elimination of the IRIS program and the re-focusing on core statutory obligations," the memo states.

The proposal is not surprising, as IRIS has been long criticized by regulated entities for the stringency of its assessments and has been on the Government Accountability Office list of programs at "high risk" of waste, fraud or abuse for its inability to produce assessments in a timely way, in addition to the 2011 NAS report.

'Unreasonably Stringent'

AFPA reiterates its long-standing concern with the program. “Throughout the history of the IRIS program, there have been criticisms of the scientific outcome of its assessments, primarily because IRIS uses outdated or overly conservative scientific information in their assessments that result in unfounded toxicological hazards and excessively low acceptable concentration levels,” AFPA says.

“When these IRIS assessments are used by EPA’s program offices, they can result in unreasonably stringent regulatory standards that are not grounded in the realities that should be considered by EPA’s program offices. While there have been many efforts to reform the IRIS program and incorporate 21st century scientific thinking, the dysfunctions in the program seem beyond repair."

AFPA is not alone in its calls, though it offers the most detail. The American Composites Manufacturers Association, for example, suggests the administration should consolidate IRIS and other federal risk assessment programs.

The group says there are numerous “redundant” government risk assessment programs, naming IRIS, EPA's Toxic Substances Control Act (TSCA) risk assessment program, and other programs within the U.S. Health and Human Services Department.

“Across the several federal government and state programs that evaluate the hazards and risks potentially associated with exposures to industrial chemicals, there is both broad overlap of missions and wide variance and inconsistency in the use of National Academy of Sciences-recommended risk assessment procedures and other accepted best practices. … Many of these redundant programs could be profitably eliminated and the resource savings invested in improving the quality, reliability and timeliness of a well-managed and properly focused chemical risk assessment program.”

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Football player who befriended boy eating alone at school is headed to NFL

Today

By: Eun Kyung Kim

Published: May 2, 2017

College football player Travis Rudolph made a lot of fans last year when he quietly sat with a boy eating lunch alone at his middle-school cafeteria. Now he is on track to gain a lot more fans in the National Football League.

The Florida State wide receiver signed on as an undrafted free agent with the New York Giants. He made the deal over the weekend while spending time with his extended family, which includes the young boy he befriended last fall, Bo Paske, who has autism.

"We're all super excited for him," Bo's mom, Leah Paske, told TODAY. "We spent Saturday waiting and hanging out and being with everyone. And then when we got the news that evening, we were there for the celebration as well."

Paske first learned about Rudolph after the college junior paid a visit to her son's Tallahassee middle school with his teammates. Rudolph spotted Bo eating by himself so he joined him at the table. Someone captured a photo of the two and sent it to Paske, who posted the picture to her Facebook page.

"I'm not sure what exactly made this incredibly kind man share a lunch table with my son, but I'm happy to say that it will not soon be forgotten," she wrote in the caption of the now-viral photo. "This is one day I didn't have to worry if my sweet boy ate lunch alone, because he sat across from someone who is a hero in many eyes. Travis Rudolph thank you so much, you made this momma exceedingly happy, and have made us fans for life!"

Paske said she and her son, 12, drove from their Tallahassee home to visit Rudolph's family in West Palm Beach last Friday evening to wait out the remainder of the NFL draft with them.

"We've just formed such a great relationship with his family. I talk to his mom several times a week. I just love her so much," she said. "They're just fantastic. They really value family and relationships highly. I'm just grateful to be able to be a part of that."

Paske said she's not sure how much Bo understands about Rudolph's specific situation, but that he "absolutely" remains his No. 1 fan.

"He just kept asking, 'Which team is he going to play for?' So when we were able to tell him he was going to the Giants, he was completely excited," she said. "It was an exciting weekend."

Rudolph's news, however, follows a tragic period for the football player's family. His father, Darryl, was killed in an accidental shooting a week earlier. Paske called the loss “heartbreaking.”

“His dad was the rock of the family. What he wanted more than anything was for his son to be successful in that endeavor. The loss was devastating,” she said.

Paske said she first met Rudolph’s parents shortly after their son ate lunch with Bo.

“I could see immediately where Travis got his character and his personality and values from,” she said. “They’re just genuine and authentic and loving people.”

She said one of the first thing Rudolph’s mother did when they met was to thank her. The gesture initially confused Paske.

“I told her, ‘I didn’t do anything.’ She said, ‘No, you don’t understand. We spend our whole lives pouring into our children. Travis is our baby,’” she recalled. “You cross your fingers and you send them out to the world and you hope you did a good job, and nine times out of 10 you don’t hear anything back. You told the world, ‘We did our job.’"

"What a cool perspective," Paske said. "I’m just so blessed to be a part of their family.”

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From: Bremer, Kristen
Sent: Thur 7/20/2017 3:03:33 PM
Subject: News Clips – July 20, 2017

News Clips – July 20, 2017

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Opinion

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…And in Happier News

- These genes may be why dogs are so friendly *(Science News)*

On this day in 1969, Neil Armstrong and Buzz Aldrin became the first to set foot on the moon

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EPA seeks to freeze Utah regional haze litigation

Greenwire

By: Sean Reilly

Published: July 19, 2017

U.S. EPA has agreed to revisit a contested plan to cut pollution from two Utah coal-fired power plants and is seeking to freeze litigation surrounding the plan, newly filed court documents indicate.

In a motion yesterday, agency lawyers asked the 10th U.S. Circuit Court of Appeals to hold lawsuits brought by PacifiCorp and the state in abeyance while the agency administratively reconsiders the regional haze rule published last July.

Recent letters from PacifiCorp and the Utah Department of Environmental Quality "identify new information that was not available to EPA at the time it promulgated the final rule," the lawyers wrote in explaining the agency's decision to grant reconsideration.

Last week, EPA Administrator Scott Pruitt told the company and the Utah department that they provided "sufficient information regarding existing and new evidence" on cost factors and other differences between the federal plan and a previously proposed state alternative "to warrant reconsidering our prior action," according to reply letters attached to the motion.

As of this morning, the 10th Circuit had not ruled. In May, the court agreed to EPA's request for a 60-day delay in the briefing schedule for the consolidated litigation, partly on the grounds that the agency was seeking an administrative settlement.

Pruitt's decision to now reconsider the plan furnishes the latest evidence of the Trump administration's gentler tack to enforcing regulations under the regional haze program, which is supposed to clear the skies around 156 national parks and wilderness areas by 2064. *The Salt Lake Tribune* reported that Pruitt, who was in Utah yesterday, personally delivered a letter outlining his decision to Gov. Gary Herbert (R).

Under the Obama administration, EPA had imposed the haze reduction plan after deciding that the state alternative would do too little to cut releases of nitrogen oxides (NOx) from PacifiCorp's Hunter and Huntington plants in central Utah.

Under the plan, the Oregon-based power producer would eventually have to reduce NOx releases from the two facilities by almost 10,000 tons annually; EPA predicted the plan would improve vistas in eight national parks. The state's air quality chief has objected that the tighter controls would yield little visibility improvement, despite a projected $700 million price tag.

Nationwide, the Utah legal clash is one in a series of fights over the Obama administration's interpretation of requirements that older coal-fired plants adopt "best available retrofit technology" to cut haze-forming emissions. Among the critics has been Pruitt himself: As Oklahoma attorney general, he brought a lengthy, unsuccessful court challenge to a haze plan for that state.

"It shows an attitude of indifference," he said of EPA's approach at a Senate hearing in January on his nomination to head the agency, "an attitude of trying to be dictatorial in some respects toward the state's role or manipulative of the state's role in a way that's, I think, counterproductive for air quality" (*Greenwire*, Feb. 14).

Last week, EPA proposed giving three power plants in Arkansas another 18 months to meet NOx reduction requirements under a haze reduction plan for that state. The agency also recently sided with PacifiCorp and Wyoming state regulators in successfully urging the 10th Circuit to freeze legal proceedings in litigation over some elements of another haze plan while a partial settlement

involving Basin Electric Power Cooperative is put into effect (*Greenwire*, June 20).

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EPA, businesses blast states' bid to intervene in ozone case

Greenwire

By: Sean Reilly

Published: July 19, 2017

Too late and out of place.

That's the initial response from U.S. EPA and business groups opposed to a recent bid by California and a half-dozen other states to intervene in long-running litigation over the agency's 2015 ground-level ozone standard.

"Such a request is due 30 days" after a petition for review is filed, attorneys for the U.S. Chamber of Commerce and an array of trade organizations wrote in a filing this week with the U.S. Court of Appeals for the District of Columbia Circuit. "California's request arrives 619 days after the first-filed petition in these consolidated cases."

In a separate response, EPA lawyers said that California and the remaining Democratic-led states should not have filed the intervention motion while the court is holding the litigation in abeyance and that they in any case lack legal "standing" to proceed.

And while the states voiced concerns that the Trump administration would not zealously defend the 70 parts per billion standard, that "hypothesis regarding what EPA may or may not do in the future is insufficient to meet the requirements for intervention in the present," the agency response added.

Ozone, a lung irritant that is the main ingredient in smog, is produced by the reaction of nitrogen oxides and volatile organic compounds in sunshine. It has been linked to asthma attacks in children and aggravated breathing difficulties in emphysema sufferers.

Under the Obama administration, EPA had adopted the 70 ppb threshold in October 2015 on the grounds that it was needed to protect public health. That decision was quickly contested by businesses and environmental groups, the former on the grounds that the new standard was unlawfully stringent, the latter arguing that it needs to be even tougher.

In April, the Trump administration asked the court to hold the litigation in abeyance while EPA officials rethink their position on the standard. Last month, agency chief Scott Pruitt pushed back attainment designations, which had been scheduled for this October, by a year.

California, Massachusetts and the five other states highlighted that postponement in making this month's bid to intervene in the standard's defense (*Greenwire*, July 7).

Allowing them to defend the 70 ppb benchmark is "the only way" to protect their states' interests in seeing the standard left in place, their motion added.

Signing on to this week's response by the U.S. Chamber are Texas and eight other states who also say the standard is too strict. Yesterday, the House approved legislation that would delay attainment designations until 2025 (*E&E Daily*, July 19).

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After governor's veto, CPS Energy steps in to fund ozone monitors

San Antonio Express-News

By: Brendan Gibbons

Published: July 19, 2017

CPS Energy will take over the funding for six air quality monitors that were shut down last month after a budget veto by Gov. Greg Abbott.

A contractor working for CPS will begin collecting ozone and weather data at the six stations in Bexar, Comal and Guadalupe counties, the utility announced in a news release late Wednesday.

"Each and every day, we serve our community by providing electric and gas service, so providing a solution to something as important to our community as air quality makes perfect sense," the city-owned utility's president and CEO, Paula Gold-Williams, said in a prepared statement.

The Alamo Area Council of Governments, a coalition of local governments funded only by grants and work agreements, had previously maintained the monitors with funding from the Texas Commission on Environmental Quality. Abbott's veto of $1.5 million from the TCEQ's two-year budget affected 10 urban areas where average ozone levels are close to violating federal health standards.

Ozone, the main ingredient in smog, forms when emissions from power plants, industrial facilities, airborne chemicals and vehicle exhaust pipes interact with sunlight. It irritates and damages the lungs and is linked to chronic health problems like asthma.

San Antonio's longterm ozone averages have been declining but are still at 72 parts per billion, slightly above the federal standard of 70 parts per billion set in 2015. San Antonio's Office of Sustainability has been pushing to reduce ozone levels after the City Council decided last year to double down on the issue.

The cost of running the six monitors through November and through next year's March-to-November ozone season will be $135,000, AACOG executive director Diane Rath said.

CPS's decision will help AACOG staff continue their photochemical modeling studies, she said. Their reports help local authorities understand where San Antonio's ozone comes from and how it behaves in the atmosphere.

"That is why I'm so grateful for this partnership with CPS," Rath said. "Having access to that information is critical."

CPS officials said they would add the six monitors to the two they are already maintaining. They also committed to installing another before next summer. Rath said the likely location is Government Canyon State Natural Area.

The TCEQ also maintains three air monitors used for regulatory purposes.

Despite San Antonio's levels not meeting the standard, U.S. Environmental Protection Agency Administrator Scott Pruitt said the EPA will not enforce it for another year. On Tuesday, the U.S. House passed a bill delaying enforcement until October 2026. The bill's cosponsors included Rep. Henry Cuellar, D-Laredo, and Rep. Lamar Smith, R-San Antonio.

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Report highlights 50+ rules stalled by Trump admin

Greenwire

By: Arianna Skibell

Published: July 19, 2017

The Trump administration has delayed or put under review more than 50 rules since taking office, according to a new report by the Center for Progressive Reform.

The compilation includes every rule for which a delay notice was published in the *Federal Register* from Jan. 20 to July 14, 2017. It was compiled by University of Maryland Law professor and CPR member Rena Steinzor and law student Elise Desiderio.

A separate batch of rules delayed by White House Chief of Staff Reince Priebus' mandatory freeze last January was not included in the report. The authors are in the process of vetting those rules and plan to update the chart soon, they said.

After Trump took office, Priebus called for most pending rules to be halted in order to ensure that the president's appointees would have time to review them (*E&E Daily*, Jan. 23).

The report was inspired by the U.S. Court of Appeals for the District of Columbia Circuit's decision in *Clean Air Council v. Pruitt* to reject the Trump administration's decision to delay an Obama-era U.S. EPA rule curbing methane emissions from new oil and gas operations (*Greenwire*, July 3).

"As the D.C. Circuit opinion in Clean Air Council reminds us, in the context of rulemaking, federal agencies are not political entities that can or should turn on a dime in response to an election, even a presidential election," CPR said in a press release.

"Before EPA Administrator Scott Pruitt or any other political appointee can suspend the application of any rule, no matter how much industry opposition it has engendered, they must explain why the issues and information compiled during the rulemaking, or any new related information, justified those decisions," CPR added.

A number of EPA, Interior Department and Energy Department rules were delayed, according to the compilation.

Some delayed rules are high-profile, like the Waters of the U.S. rule and the Clean Power Plan,

which were both placed under review earlier this year (*E&E News PM*, March 1, *Climatewire*, June 12).

Other rules have received less attention, such as two Obama-era rules aimed at cutting landfill methane emissions (*Greenwire*, May 23).

A full list of delayed rules can be found here.

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Panel OKs spending plan; EPA, climate amendments rejected

E&E Daily

By: George Cahlink

Published: July 20, 2017

The House Budget Committee adopted its fiscal 2018 spending and policy blueprint late last evening in a party-line vote, after rejecting Democratic bids to boost environmental priorities.

The budget, approved 22-14, would set overall discretionary funding at $1.13 trillion for the coming year, matching the dollars House appropriators have already been using to craft their fiscal 2018 spending bills in recent weeks.

Additionally, the budget would call for more than $200 billion in cuts in mandatory spending over the next decade and set the framework for a tax overhaul later this year.

"With the election of President Trump, our budget goes from being a vision document to being a

governing document that outlines how we build a better America," said House Budget Chairman Diane Black (R-Tenn.) during the daylong markup.

The budget contains so-called reconciliation instructions that require 11 House committees to come up with a deficit-neutral tax proposal and $203 billion in mandatory savings by Oct. 6. The tax and savings plans would then be put into a single bill. And the process of reconciliation allows for passage in the Senate by simple majority.

House leaders have not ruled out moving the budget to the floor before they leave for recess at the end of next week, although it's not clear there are yet enough votes for it to be adopted.

Conservatives have angled for deeper cuts in mandatory programs and guarantees on taxes, while moderates have pushed back against the demands for tougher reductions.

EPA, climate

Budget Committee Democrats offered more than two dozen amendments to alter spending, tax and other policy provisions during the markup that lasted more than 12 hours. All of those proposals failed in party-line votes.

"Democrats believe we should be investing in the American people, our economy, and greater opportunity for all, and we will continue to fight against this irresponsible budget when — or if — it is brought to the House floor," said ranking member John Yarmuth (D-Ky.) after the budget document passed.

Among those Democratic proposals defeated was one that would have halted a 6.6 percent cut for U.S. EPA for the upcoming fiscal year and continued agency funding at the current level of about $8 billion annually.

Rep. Brian Higgins (D-N.Y.), who proposed the amendment, said reductions to EPA will

compromise air and water safety to achieve only small savings. He noted that cleaning up waterways, the air and toxic waste sites has an overall positive economic impact.

But Rep. Bruce Westerman (R-Ark.) echoed a GOP budget summary that accused EPA of regulatory overreach. He said the American economy is "under assault from the EPA," citing figures from the conservative Competitive Enterprise Institute, which accuses EPA of costing the economy $1.9 billion annually in regulatory costs.

A familiar partisan fight broke out over climate change, after Rep. Pramila Jayapal (D-Wash.) proposed an amendment that would have provided $500 million annually over the next decade to help states and local communities fight global warming.

She said the proposal was a response to President Trump's decision to withdraw the U.S. from the Paris climate accord. During debate, Jayapal mentioned the recent Group of 20 summit, where the U.S. didn't join its partners on a climate statement.

Budget Committee Republicans criticized the Paris deal for placing the U.S. at a competitive disadvantage against other nations. They said following its tenants would cost the U.S. economy billions of dollars and millions of jobs, a claim accord supporters have rejected.

Rep. Gary Palmer (R-Ala.) said the U.S. should be focused on easing regulations that would make energy production easier from the nation's "abundant" national resources. He also said severe weather patterns, predicted by "climate hysterics," have largely not come to pass.

Other amendments rejected included:

- A proposal that would have required parity between any increases in defense and non-defense spending.
- A proposal that would have eliminated $1.6 billion for building a border wall along the U.S.-Mexico border.

- A proposal that would have boosted spending on science research at both the National Institutes of Health and National Science Foundation.

Democrats did not offer an amendment to try and block a budget provision calling for the House Natural Resources Committee to find $5 billion in reconciliation savings. Environmentalists worry that proposal could lead to the committee proposing drilling in the Arctic National Wildlife Refuge (*see related story*).

Conservative pushback

Signs of potential GOP discord were evident at the markup.

Rep. Mark Sanford (R-S.C.) said he was concerned that the House Republican tax plan would rely on a Border Adjustment Tax, a 20 percent levy on all U.S. imports favored by House leaders. He worried the proposal could spark a trade war and harm his hometown port of Charleston, S.C.

"I'm struggling with that," Sanford said.

He sought to offer an amendment that would have removed the contentious BAT from any tax plan, but Black ruled the proposal out of order. Opposition to the BAT is stronger in the Senate.

Another conservative, Rep. Dave Brat (R-Va.), expressed similar misgivings, saying the budget's reliance on the BAT and a health overhaul to pay for tax reform is risky. He said both proposals might not advance and that would mean far less revenue to pay for broad tax cuts.

Brat, along with other conservatives, have said they want far deeper cuts in mandatory spending that could offset the cost of tax reform, which the budget proposal says must not raise the federal deficit.

While Sanford and Brat both ended up backing the budget, both say their support in committee does not guarantee they will vote for it on the floor.

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House Panel's Approval Of EPA Spending Bill Offers Prelude To Further Talks

Inside EPA

By: Doug Obey

Published: July 19, 2017

The House Appropriations Committee has approved an EPA spending bill for fiscal year 2018 that provides the agency with significantly more than what the Trump administration had sought though the bill's passage offers a prelude to further negotiations among both House and Senate lawmakers over funding levels and policy riders.

During the committee's July 18 markup of the Interior and environment appropriations bill, Democrats rejected the measure in its current form, signaling they plan to fight to further increase funding and remove policy riders.

And Republican appropriators indicated they remain open to adding funding for some programs that enjoy bipartisan support -- assuming they can win increased funding levels for EPA and other agencies during upcoming budget discussions.

The committee voted 30-21 -- along party lines -- to send the bill to the House floor, during a markup that highlighted questions over the ultimate fate of the bill in the House and in negotiations with the Senate and White House over final spending levels for fiscal year 2018.

"This funding level will ensure the agency is able to fulfill its core duties while streamlining the agency and reshaping its workforce," said Appropriations Committee Chairman Rodney Frelinghuysen (R-NJ).

But Rep. Ken Calvert (R-CA), chairman of the Interior appropriations subcommittee, said several times that he remained hopeful that a pending broader budget deal on spending levels across the federal government might free up money to increase spending for specific, popular programs.

The bill approved by the committee provides $7.5 billion for EPA, a 6.5 percent decrease from FY17. While the bill cuts the agency less than the massive 31 percent cut proposed by the Trump administration, the reduction of $528 million from FY17 levels is drawing harsh fire from Democrats after years of budget decreases for the agency.

And it comes amid report that EPA's spending bill is not expected to be part of an initial group of spending bills, known as a "minibus," scheduled for possible House approval next week.

Frelinghuysen during his remarks praised parts of the bill, including funding for Superfund site cleanups, as well as an array of policy riders he said reflect the need to "cut job killing red tape."

And Calvert in his opening remarks noted that the bill supports efforts by the Trump administration to "begin reshaping the workforce at EPA."

But Rep. Nita Lowey (D-NY), the committee's ranking Democrat, underscored the minority's hostility to the legislation, asserting the bill would "cripple the agency" and that it risks a government shutdown by spurning Democratic lawmakers.

"Democrats cannot support a bill that threatens the health of our environment," she said.

And Rep. Betty McCollum (D-MN), the ranking Democrat on the Interior subcommittee, likewise called the legislation a "partisan bill that will not become law in its current form."

She cited concerns over the proposed cuts on an agency that already has 2000 fewer staff than in 2010.

GOP Disunity

The dynamic offers additional evidence that Democrats will seek to exploit perennial disunity within the Republican caucus on spending and other legislation that has historically left GOP leaders dependent on at least some level of Democratic support to approve spending bills.

Those divisions may boost Democrats' leverage to demand further concessions in the legislation -- including removal of at least some riders or addition of additional funding in exchange for providing needed votes.

The proceeding comes weeks after a critical mass of Senate Democrats already pledged in a letter to Senate appropriators to block inclusion of policy riders in spending bills. But meeting the demands of Democrats also runs counter to pressure from conservatives for even deeper cuts to EPA than in the current House bill.

A preview of likely demands surfaced as Democrats during the July 18 markup demanded a roll call vote on several amendments, including an unsuccessful amendment from McCollum seeking to strip 16 policy riders from the bill.

A few of the most high-profile riders include a delay of EPA's ozone standard, language authorizing quick withdrawal of the Waters of the U.S. rule, and language blocking financial assurances requirements under Superfund.

At the same time, a second, and more collegial dynamic was also evident at the hearing, with Republican appropriators open to sweetening the bill by adding additional money for popular programs that appeal to members of both parties.

"I am going to work with you, to get to a better place at the end of this process," Calvert said, for example, in response to an amendment subsequently withdrawn by Rep. Jeff Fortenberry (R-NE) seeking more money for the land and water conservation fund.

Calvert similarly in response to a proposed amendment from Rep. Marcy Kaptur (D-OH) -- seeking to add $16 million to EPA's safe and sustainable water resources research account -- said he would "like to revisit" the issue if the pending budget deal is reached.

And the route to similar discussions appeared open in the wake of an amendment from Rep. David Price (D-NC) to bring EPA research funding in the bill back up to FY17 levels; a proposal from Henry Cuellar (D-TX) to boost funding in the bill for border environment programs; and a proposed amendment from Kaptur and Rep. Debbie Wasserman Schultz (D-FL) to restore $250 million in funding to the clean water state revolving fund.

Still, the committee rejected numerous Democratic amendments at the markup either by voice or recorded vote. They included an amendment from Rep. Mike Quigley (D-IL), rejected 31-29, that would have explicitly barred any use of funds to close EPA regional offices; an amendment from Rep. Matt Cartwright (D-PA) that would have removed bill language delaying implementation of the 2015 ozone standard; another Cartwright amendment, rejected 21-29, that would have instructed agencies to prepare for climate impacts.

After a discussion with Calvert, McCollum withdrew an amendment that would have codified report language imposing restrictions on reprogramming of funds at EPA, the Department of Interior and other agencies. And Rep. Chellie Pingree (D-ME) withdrew a proposed change to report language accompanying the bill that she said would admonish Administrator Scott Pruitt to follow the Administrative Procedure Act, citing the recent federal court rejection of his effort to delay an oil and gas methane rule by 90 days.

The final approval of the legislation late July 18 came after approval of a manager's amendment that makes "noncontroversial" changes to the legislation, as well as the addition of amendments

including: language modifying bill language requiring use of domestic iron and steel in water infrastructure projects, and language limiting funds for approval of turbines less than 24 nautical miles from Maryland's shore.

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Many staffers plan to weather Trump tempest

Climatewire

By: Niina Heikkinen and Robin Bravender

Published: July 20, 2017

U.S. EPA employees aren't rushing for the exits, despite jitters about the Trump administration's direction on the environment and its efforts to give cash incentives to staffers who leave their jobs.

Some agency employees have left, citing opposition to President Trump's policies. But most EPA staffers are staying put. The agency's workforce grew during the first several months of the Trump administration, and current employees suspect there won't be many takers for voluntary buyouts and early retirement offers.

"It's rare" to see employees departing, said one EPA staffer. "Folks are dedicated to the mission and really see that even if your wishes or your policy stance don't align with the administration, there's still important work to be done."

Even those who oppose Trump's plans to roll back rules and slash EPA's budget are hunkering down for a variety of reasons, according to current staffers. Some are waiting out the administration, while others want to fight policies they disagree with from the inside. Some worry that they won't be able to find jobs and can't afford to abandon their salaries, even if they're eligible for the buyout packages.

John O'Grady, an EPA union leader based in the agency's Chicago office, said employees are still waiting to see how Trump's policies impact them.

"Really the new administration hasn't come and done dastardly things yet to EPA," he said. "They proposed a horrible budget and horrible staffing figures, but it's being mitigated somewhat by Congress."

He added, "I think people have some hopes about the 2018 elections changing at least the makeup in Congress."

Gay MacGregor is one ex-EPA employee who left because of the Trump administration. The former senior policy adviser at the agency's transportation office in Ann Arbor, Mich., had vowed last year to leave if Trump won the White House. She was close to retirement but had been planning to stay for one more year.

"I told my boss last summer when [Trump] won the primary I would leave if he won, because I thought I could do more good from the outside because people inside would be more restricted from talking, either by edict or because they felt it was too risky," MacGregor said.

Overall, EPA's staff grew between December 2016 and March 2017, according to the most recent data from the Office of Personnel Management. EPA had 15,707 employees nationwide in December and 15,797 in March.

Now the administration is looking to cut about 1,200 staffers by September through buyouts. But employees and union officials don't think there will be many takers.

'Another job?'

There is the question of the incentive itself. Employees who accept the buyout can't get more

than $25,000. That value hasn't changed recently to reflect inflation, so it isn't as attractive as it might have been a number of years ago.

"The people that are ready to retire right now or within three months would be happy to accept a check from EPA as an enticement or a bonus," O'Grady said. But the $25,000 maximum payout isn't enough for most employees, he said.

And the Trump environmental agenda will have a "cascading effect" in states and corporations, O'Grady said. So people working in the environmental field can't expect to find regulatory jobs in other areas. "Where are you going to go to find another job?"

For those who may want to leave early, they're facing an "incredibly short" window of time to make up their minds, said Nicole Cantello, vice president of labor relations for the nonprofessional unit at the American Federation of Government Employees (AFGE) Local 704.

EPA employees did not know until the buyout offer was finalized which positions would be eligible for early retirement and buyouts. The Office of Personnel Management and the Office of Management and Budget approved the agency's request for early retirements and buyouts on July 10.

Employees who are eligible were notified by their program or regional manager on July 13, according to an internal memo obtained by E&E News.

The timing of the announcement means that people had a matter of days to decide whether they will leave the agency, said Cantello.

"It's a huge decision that they have to make. There are a lot of financial decisions and soul-searching," said Cantello. "The people attracted to federal employment like consistency. These are not risk-takers. To have to make this decision goes against the grain.

"I think people feel under the gun, these people love their jobs," Cantello added.

While she had heard of some staff being interested in early retirement, that's not the case for buyouts among younger workers.

There could be layoffs if the administration doesn't achieve its workforce reduction goals.

Diane Lynne, president of the EPA union National Treasury Employees Union Chapter 280, said her group's goal is to prevent "involuntary separations" for employees.

The White House's draft budget released earlier this year proposed cutting EPA's staff by 3,200 employees in fiscal 2018, although cuts that steep are unlikely to clear Congress.

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Philly EPA region could take major hit in buyout plan

The Philadelphia Inquirer

By: Frank Kummer

Published: July 20, 2017

The U.S. Environmental Protection Agency's Region 3, which includes a large Philadelphia office, could lose the most employees of the agency's 10 regional operations through recently announced buyout offers, according to figures obtained by the Inquirer and Daily News.

Region 3 covers Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and Washington, D.C. But the region's biggest office by far is in Philadelphia.

The EPA is targeting a maximum of 159 workers for buyouts and early retirements in Region 3, or nearly one-fifth of its approximately 795 employees, according to the numbers supplied by union officials representing EPA employees. Of that number, 136 would come from the Philadelphia office. Buyouts, which also are being offered to non-union employees, are voluntary, so it's not clear just how much the effort will reduce staff.

EPA officials say the buyouts are part of the Trump administration's general plan to shrink government, but there is no hard minimum or maximum number. Mike Flynn, the EPA's acting deputy administrator, sent an email to employees Wednesday explaining that the U.S. Office of Personnel Management and the U.S. Office of Management and Budget approved the offer for early retirements and buyouts. But he stressed that the decision to accept is voluntary and that the offer closes Tuesday.

"This is a very personal decision and employees are urged to carefully consider the information provided and their personal situation prior to deciding," Flynn said.

Among the biggest buyout targets are scientists, such as environmental protection specialists, environmental engineers, and general physical scientists. But lawyers, secretaries, and other job classifications are also on the list.

"I found out over the past week," said Gary Morton, president of American Federation of Government Employees Local 3631, the union representing Region 3 employees. "It's worse than expected."

Morton said the impact of the buyout is difficult to gauge since employees are still mulling their options and the agency is restructuring in many areas. The most senior employees, those with 30 years of service, can get up to $25,000 as part of the buyout.

"This tells me the agency is looking to retire its higher-graded, most knowledgeable employees and replace them with new employees," Morton said.

Overall, the EPA is looking to buy out more than 1,200 of its 15,000 employees. At its Washington headquarters, the Office of Research and Development — the agency's main scientific research arm — could see the biggest buyout, with offers going to 183 people.

The buyouts, part of the 2017 fiscal year, are separate from any proposed budget cuts to the agency for the 2018 fiscal year, which starts Oct. 1. This week, the House Appropriations Committee approved a bill that would cut the EPA's budget to $7.5 billion for 2018 — about $500 million less than President Trump's original proposal calling for a $2.6 billion cut. The bill includes money to pay for buyouts.

Morton said the buyouts could both eliminate the most experienced talent and force state governments — also facing budget cuts — to take on more environmental protection duties.

Neil Shader, a spokesman for the Pennsylvania Department of Environmental Protection, said it's too early to say how buyouts would impact the state.

John O'Grady, the AFGE's national president, said his bottom line is, "Will the U.S. EPA still be able to protect the environment?"

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Democrats live-tweet 'secret' Arctic trip

E&E Daily

By: Arianna Skibell

Published: July 20, 2017

House Science, Space and Technology Committee Democrats took to Twitter earlier this year to publicize a trip to the melting Arctic, dispelling the notion that it was a clandestine journey.

Chairman Lamar Smith (R-Texas), who has questioned the prevailing science on global warming, has been less willing to sound off about the travels.

A May 8 tweet from the panel Democrats' account says, "Follow along this week as @HouseScience and @SciCmteDems visit the Arctic Circle to learn more about the research being conducted there!"

A May 9 tweet expressed excitement to learn about "cutting edge climate research" being conducted by federal scientists in Barrow, Alaska.

Last week, Buzzfeed News reported on the trip, calling it "secret." Since then, Smith has not responded to E&E News' requests for comments (*E&E Daily*, July 18).

But Kristina Baum, the chairman's outgoing communications chief, was quick to dispel the notion that the May trip was secret.

"So secret that @SciCmteDems live tweeted the trip!" Baum replied to ProPublica reporter Andy Revkin's tweet about the story.

House Democrats posted pictures from the six-day Arctic adventure along with factoids and appreciations. "Thank you to the local leaders of Utqiagvik for sharing about your community this morning!" a May 9 tweet reads.

A Democratic aide confirmed that the junket was not a secret. "We have never described this trip as secret," the aide said in an email to E&E News. "I'm unsure why the scientists in the Buzzfeed article were asked not to talk about the trip or why it's being described as secret."

Buzzfeed reported that scientists who met with lawmakers were asked not to disclose information about it.

The Arctic Circle is considered to be the front lines for climate change impacts. It's seen rapid sea ice loss, melting glaciers and thawing permafrost.

@SciCmteDems/Twitter

That Smith would lead an oversight trip to federal facilities conducting research in the area has generated interest among people who follow the issue (*E&E Daily*, July 18).

Press secretary Thea McDonald said her boss invited Democrats to join him on the trip to conduct oversight and to support agencies within the committee's jurisdiction.

"The Chairman is grateful for the gracious hosts, and was pleased with the interest from Members who participated," she told E&E News in an email.

In a later email, McDonald said the trip "was a valuable learning experience for Members on both sides of the aisle, and the information they gathered will continue to shape the committee's oversight conversations."

She did not respond to requests about whether the trip had impacted Smith's views on climate science.

Also in May, Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) led a bipartisan group of lawmakers on a trip to several Arctic sites.

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Surprising scientists, 2017 could be among warmest ever

Climatewire

By: Scott Waldman

Published: July 20, 2017

This year is on track to be the second-hottest on record, surprising climate scientists who thought natural weather patterns could break a multiyear trend of record-breaking temperature increases.

Global temperatures this year have been 1.64 degrees Fahrenheit above the 20th-century average of 56.3 F, according to NOAA. That's second only to last year, by a difference of about 0.29 F. Last year is the warmest on record.

Each of the last three years have broken global high temperatures records. But temperatures since January have caught some researchers off guard, because they expected that the tapering off of an El Niño period, which typically raises temperatures, would hold down global heat levels. Instead, this year is on pace to top every record except the one set in 2016, researchers found. At this point in the year, 2015 was the third-hottest on record. It ended up breaking every heat record — until being topped by 2016.

There is a greater than 57 percent chance that 2017 will turn out to be the second-hottest year on record, according to Gavin Schmidt, director of NASA's Goddard Institute for Space Studies. There are greater odds that 2017 will be one of the top three hottest years ever recorded.

Global carbon emissions have slowed recently, but they continue to build in the atmosphere at a record pace, because the gas can be present for centuries. That drives warming. Researchers released the latest measurement of atmospheric CO2 yesterday; it reached 406.56 parts per million in June at the Mauna Loa Observatory in Hawaii.

High temperatures, like those occurring now, are linked to rising CO2 levels, said Pieter Tans, lead scientist at NOAA's Global Greenhouse Gas Reference Network. However, he cautioned against attributing a single year's temperatures to CO2 growth.

"The annual increase is still above 2 ppm per year. I think that is directly linked to the fact that CO2 emissions from fossil fuel burning and cement production are also at a record high. That is directly linked," he said. "Now, the temperature increase is also directly linked to high CO2, but maybe not on a year-to-year basis."

The observatory in Hawaii has recorded five consecutive years of CO2 increases of at least 2 ppm, an unprecedented rate of growth, according to NOAA. Since 1960, CO2 has increased more than 30 percent, or 100 ppm. About 150 years ago, before the age of industrialization, atmospheric CO2 was 280 ppm. It had been at that level for about 10,000 years.

Sea ice in both the Arctic and Antarctic are also near record lows. Sea ice cover in Antarctica is now 6.3 percent below average from 1981 to 2010. That's the second-lowest ever observed for this time of year over 40 years of record-keeping. In the Arctic, sea ice cover is 7.5 percent below average, the sixth-smallest ever recorded.

Heat spiked in spots across the globe. Africa saw its hottest June ever recorded. Europe and South America were much warmer than average. The American Southwest saw a heat wave break multiple temperature records, as well. Eastern Russia was an anomaly, with cooler-than-average conditions, even as the rest of the country was much warmer than average.

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Is 'Game of Thrones' a parable about climate change?

Greenwire

By: Arianna Skibell

Published: July 19, 2017

The beloved and bloody HBO series "Game of Thrones" is back for a new season, and some are saying the message about climate change is undeniable.

Here's the idea: The noble houses of Westeros have been so focused on playing politics — and killing each other to gain power — that they've failed to recognize a growing threat, the White Walkers, who are named for the snow and ice that accompany them.

White Walkers and their zombie army want to wipe out humanity with no regard for nation or noble house. But instead of uniting to fight the undead, the houses obsess over political disagreements and power struggles while ignoring the White Walkers or blatantly denying their existence.

Recognition that White Walkers are real is growing in the seven kingdoms. Now the noble houses must unite around the common goal to defeat the White Walkers or face extinction. Season seven will likely test humanity's coordination.

Replace Westeros with global leaders and White Walkers with climate change, and that's the metaphor.

David Doniger, director of the Natural Resources Defense Council's climate program, says the

climate message is clear.

"They had a stable political system, if you remember way back in the first episode, and now with everyone looking after their own political interest, no one is paying attention to the fact that winter is coming," he said.

"Winter is coming" is the motto of House Stark, the keepers of the North and the closest to the great wall that separates civilization from wildlings and White Walkers. The expression is meant as a warning and alludes to the death and destruction winter could bring.

"I'm not going to belabor it, but there seems to be some degree of denial that winter is coming — at a minimum, ignoring it and pretending that this relatively benign weather system that they've been enjoying will go on forever," Doniger said.

While depleting natural resources, he said, the United States — and Westeros — are losing much more.

"We're eating up our political seed corn," he said. "We're actually depleting the sum of the unwritten things that make the country and political system work: a sense of cooperation, a willingness to compromise, attention to fact, respect for science, the willingness to plan for the future.

"That's what 'Game of Thrones' seems to be about. Whoever wins will become the master of a highly impoverished kingdom."

In 2015, political scientist Charli Carpenter published a paper in *Foreign Affairs* arguing that "Game of Thrones" is about how the drive to meet short-term goals distracts leaders from addressing larger questions of human survival.

Vox added climate change to the mix, and then scores of online publications picked up the idea,

including *Grist*, *ThinkProgress*, *Vogue* and *Esquire*.

Vanity Fair ran a piece this month linking characters in the show to real-life climate players, in which the Mother of Dragons Daenerys Targaryen is a stand-in for German Chancellor Angela Merkel, Margaery Tyrell is Ivanka Trump and Cersei Lannister is the Koch brothers.

Scientists have picked up on the theme. Tom McGovern, an archaeologist who studies climate change, said a colleague was awarded a grant for a project proposal titled "Winter is Coming."

In the show, doom comes in the form of endless winter. In the real world, the climate is warming, which, it turns out, complicates the job of the show's producers.

Scenes showing the wasteland beyond the wall are shot in Iceland, where glaciers are melting, said Kit Harington, the actor who plays Jon Snow, the king in the North.

"We go out there this year, and the glacier that [we] filmed on four years ago, I saw it and it has shrunk. I saw climate change and global warming with my own eyes, and it is terrifying," Harington told *Time*.

Warmer ocean means trouble

Brendan Kelly, the executive director of the Study of Environmental Arctic Change at the International Arctic Research Center, said a warming Arctic could have far greater implications for the earth than making winter scenes hard to film.

Arctic ice acts as a giant mirror that covers a huge portion of polar regions and reflects most of the sun's energy away from the earth, he said. When warming temperatures melt sea ice into sea water, the sun's energy is absorbed, which causes more warming (*Climatewire*, March 2).

"On a local scale, a change in sea ice impacts people who hunt and fish on sea ice or industries who use ice as a platform for oil exploration," Kelly said.

Less ice in summer lets wind whip up larger waves that slam the shoreline more frequently, causing erosion.

"As the glaciers and ice sheets melt and raise sea level even more, that will have a greater impact on coastal flooding and erosion," he said.

The consequence is not only a warmer ocean, he said, but also a warmer atmosphere above the Arctic Ocean. As the ocean temperature and the atmospheric temperature become more similar, the jet stream slows down (*Greenwire*, March 27).

"The jet stream becomes much wavier, and those waves are associated with extreme weather events," Kelly said.

And as the ice melts, carbon stored in permafrost is released, exacerbating greenhouse gas emissions and shifting how water flows or doesn't flow, which can change ecosystems (*Climatewire*, March 30).

In other words: Summer is coming.

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Can Duke's Edwardsport turn tide for clean coal post-Kemper?

Energywire

By: Jeffrey Tomich

Published: July 20, 2017

When Duke Energy Corp. proposed the Edwardsport plant in southwest Indiana in 2006, the project was billed as a "technological marvel" that would help usher in a new era of clean coal — a pillar of Duke's plan to be a climate change leader under then-CEO Jim Rogers.

At a time when Congress was weighing proposals to rein in greenhouse gas emissions that would inevitably squeeze coal states like Indiana, Edwardsport represented a way to realize the best of both worlds.

The 618-megawatt plant would let the Hoosier State continue to tap its massive coal reserves for electricity, spawning jobs and tax revenue. Meanwhile, the technology offered a way to capture carbon dioxide emissions and store them deep underground or use them for enhanced oil recovery.

Fast-forward a decade: The coal gasification plant suffered delays and came with a $3.5 billion price tag — almost double its original $1.9 billion estimate. An ethics scandal led to the firing of the state's top utility regulator and the resignation of Duke's No. 2 executive. And the prospect of installing carbon-capture equipment was tossed aside before the plant was complete.

Unlike most coal-fueled power plants, where pulverized coal is burned to produce steam, Edwardsport is an integrated gasification combined cycle (IGCC) plant, where coal is converted to synthesis gas pre-combustion, enabling much of the air pollution to be stripped out.

While much cleaner than conventional coal, an IGCC plant's complex systems are also what turbocharged Edwardsport's cost and the challenge of keeping it running smoothly — a reality the plant's operators are still grappling with.

"Edwardsport is a complex and highly integrated plant and it will take time to determine the best approach to maintenance," plant manager Garth Woodcox said in testimony filed with the Indiana Utility Regulatory Commission.

The plant is one of two highly scrutinized IGCC projects that were supposed to pave the way for the next generation of cleaner coal-fired generating plants that would help the U.S., and indeed the world, continue to supply cheap electricity while addressing climate change.

The other is Southern Co.'s $7.5 billion Kemper project in Mississippi, where frustrated state regulators last month directed the utility to operate the plant on natural gas. Southern responded by deciding to pull the plug on coal gasification and systems to capture CO2 (*Energywire*, July 7).

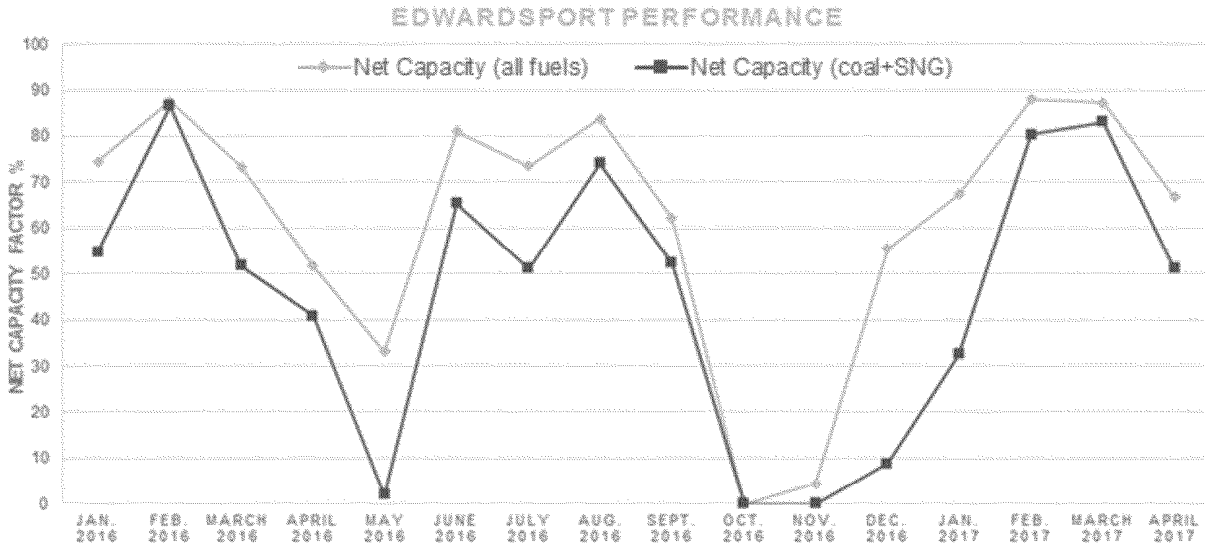
While defenders of next-generation coal plants are quick to draw distinctions between the plants, they are no doubt linked in key ways, including the fact that both received more than $100 million in federal tax credits as part of a $1 billion 2006 George W. Bush administration initiative to advance "clean coal."

Like Kemper, the Edwardsport plant will also forever be characterized by being behind schedule and over budget — a fact Duke blamed on rocketing prices for steel, concrete and other commodities during construction.

Critics view it through a different lens.

"The only reason Edwardsport isn't Kemper right now is because Edwardsport abandoned CCS," said Kerwin Olson, executive director of the Citizens Action Coalition, an environmental and consumer advocacy group. "Instead, we just have another coal plant. It's never going to perform to the level Duke said it was going to perform."

Costly for coal



The Edwardsport IGCC plant has been up and down as Duke Energy dealt with longer-than-expected maintenance outages and other unforeseen repairs. But the plant ran at more than 80 percent of capacity on gasified coal for two consecutive months earlier this year. Data: Indiana Utility Regulatory Commission filings

While Edwardsport is indeed among the cleanest coal plants in the nation in terms of regulated pollutants such as sulfur dioxide, nitrogen oxides and mercury, it's also among the most expensive relative to the amount of energy it produces.

A Duke Indiana residential customer who uses an average of 1,065 kilowatt-hours a month now pays $15.44 for Edwardsport, according to the coalition. That amount would rise 30 cents if regulators approve an increase sought by the utility under a 2016 settlement (*Energywire*, Jan. 19, 2016).

While Edwardsport's operations improved in early 2017 and the plant achieved new highs in net capacity factor (a key metric of performance that measures a plant's actual output versus maximum output), the plant has struggled to run consistently at high levels since being declared commercially available in June 2013.

Duke executives declined to be interviewed. But in testimony and operational data submitted to regulators as part of a request to recover additional operating and maintenance costs and capital expenditures, utility officials shed light on some of the challenges.

The filings described how planned maintenance outages over the past 21 months dragged on longer than expected, complicated by unanticipated problems such as leaking pipes and corrosion.

According to Duke, each of the plant's two coal gasifiers were taken offline for about two months in the spring of 2015. The gasifiers were again down for much of the fall of that year for replacement of refractory bricks and to resolve other "emergent issues."

Both gasifiers were taken down again for planned maintenance in September. The outage was supposed to last through the first week of November. Instead, the units were offline most of the rest of the year because of unanticipated leaks and other "relatively minor issues." One of the gasifiers returned Dec. 21; the other didn't come online until Jan. 11.

Not surprisingly, the utility set a high bar for Edwardsport a decade ago when it sought the blessing of regulators to move forward with the project — and to begin collecting costs from ratepayers.

Modeling by Duke indicated the plant would operate at an 82 percent capacity factor and would be "consistently among the first units economically committed and dispatched on the Duke Energy Indiana system due to its efficient heat rate and low environmental emissions."

So far, that hasn't turned out to be the case — at least consistently.

Over the 16 months from January 2016 through April, the net capacity factor at Edwardsport topped 80 percent five times, but it achieved that level only three times running on coal. (The plant can also operate on natural gas.) Including all fuels, the average capacity factor was about 57 percent last year.

While that's in line with — if not marginally better than — the average U.S. coal and combined cycle natural gas plant, according to data from the U.S. Energy Information Administration, the

performance has been lumpy and nowhere near the level forecast by Duke a decade ago.

'It was foreseeable'

In many ways, the themes at issue in the Edwardsport case a decade ago are just as relevant now as the electric industry awaits the Energy Department's grid study on the importance of baseload power.

At the time Edwardsport was proposed, Duke said its demand forecast showed the utility needed to add 600 MW of baseload power by 2011 to head off a potential shortfall against its reserve margin.

Synapse Energy Economics, a Cambridge, Mass.-based consulting firm hired by Citizens Action Coalition and other environmental groups, filed detailed testimony that showed otherwise.

Bruce Biewald, Synapse's chief executive, testified that Duke's cost estimate and the plant's anticipated startup date were overly optimistic. He said that the utility failed to adequately analyze risks and costs, and that a mix of energy efficiency and wind — even natural gas — would be a better deal for ratepayers.

In testimony, Biewald said an alternative portfolio of wind and efficiency would have saved Duke $1.9 billion through 2030. In retrospect, the savings would have been far greater had the utility and regulators chosen a different path, he said in a telephone interview this week.

"It was foreseeable," he said. "We saw it coming, and I think any reasonable, objective person that looked at the facts and the evidence saw it coming."

Biewald, who has been involved in resource planning processes at state commissions across the country, sees the Edwardsport decision as a failure of utility forecasting, of risk analysis and of regulatory scrutiny.

"In this case, the system really failed," he said.

It's also a cautionary tale for utilities that want to set out to build the next central station mega-project in a fast-evolving energy landscape where energy efficiency and renewables have often proved cheaper.

"The idea that we need baseload power is indeed bogus," he said. "What we need is reliable power and a reasonable price and that complies with environmental regulations."

Not surprisingly, groups that fought to defeat Edwardsport don't think the plant will ever live up to Duke's promises. But project supporters hold out hope.

Realizing that vision of climate leadership described by Rogers may rest on whether carbon capture and sequestration ever becomes a reality at Edwardsport.

U.S. EPA data show the Edwardsport plant emitted the equivalent of 2.6 million tons of CO2 in 2015, the most recent year for which data are available. In absolute terms, other Indiana coal plants emit more greenhouse gases.

But a report for the Citizens Action Coalition showed that from January 2013 to September 2014, the plant emitted more CO2 per unit of energy than any other plant in Duke's Indiana fleet.

To this day, Olson questions how Duke seriously intended to pursue carbon capture and sequestration at Edwardsport. What he's more certain of is that chances of CCS at the plant at some point in the future are slim to none.

"It's not going to happen, whether it's the technology, geology or economics," Olson said.

In fact, visible efforts to pursue CCS at Edwardsport came to an abrupt halt in January 2013, about six months before the plant began operation.

Incentives lag

CCS wasn't approved by regulators as part of the certificate granted to Duke to build the plant despite a recommendation that equipment be installed to capture and store 15 percent to 20 percent of Edwardsport's CO2 emissions.

A decade ago, the Indiana Utility Regulatory Commission agreed with other parties that some form of carbon regulation was likely in the future, and required Duke to return in six months with a preliminary engineering and design study.

But in 2013, the commission rejected Duke's request for an additional $42 million to move to the next phase of its study on carbon sequestration and enhanced oil recovery options related to Edwardsport.

In its order, the commission cited the many "uncertainties related to the long-term management of CO2" and the fact that potential EPA regulations concerning existing power plants are "speculative in terms of both timing and result."

The commission, however, encouraged Duke to continue studies on carbon sequestration and return later with an alternative or "other appropriate" regulatory treatment.

John Thompson, director of the Fossil Transition Project for Clean Air Task Force, testified in support of the Edwardsport plant in 2007 and remains hopeful today that Duke will pursue CCS.

"The challenge with carbon capture right now is that it doesn't have the same incentives as renewables," he said. "There's not an incentive for capturing carbon. There's not a financial incentive, and there's not a regulatory incentive."

Thompson is quick to cite the early success of NRG Energy Inc.'s Petra Nova project in Texas and sees potential for CCS at other existing coal plants in a Senate bill proposed by a bipartisan coalition of coal-state legislators.

The "Furthering Carbon Capture, Utilization, Technology, Underground Storage and Reduced Emissions (FUTURE) Act" introduced last week would expand tax credits for stored carbon dioxide trapped from industrial facilities and power plants.

The bill would boost credits from $10 and $20 per metric ton of CO2 captured for use in enhanced oil recovery and for storage in geologic formations to $35 and $50 a ton, respectively (*E&E Daily*, July 13).

Thompson said CCS projects in Texas' Permian Basin would probably be the first to benefit from the federal legislation, followed by projects along the Gulf Coast. Beyond that, the Midwest could be in play.

"At that point, plants like Edwardsport might look sort of attractive," he said.

A longtime advocate for clean coal research and development and broader deployment of next-generation coal technology, Thompson said Kemper and Edwardsport illustrate a need for the costs and risks of such first-mover projects to be spread more broadly and not simply piled on the backs of utility ratepayers and shareholders.

"What we need is early adopter rewards," he said. "But what we have is pioneer penalties."

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EPA to Revisit Pollution Control Plan for Utah Coal Plants

Associated Press

Published: July 19, 2017

SALT LAKE CITY (AP) — The head of the U.S. Environmental Protection Agency says federal officials will reconsider a 2016 plan requiring pollution controls at two of Utah's oldest coal-fired power plants.

EPA Administrator Scott Pruitt made the announcement Tuesday while visiting Salt Lake City and meeting with Republican Gov. Gary Herbert.

President Barack Obama's administration issued the plan last year requiring the plants to put in new equipment to reduce nitrogen oxide emissions causing haze at nearby national parks in eastern Utah.

Environmental group say the controls are needed to cut emissions but Utah and Rocky Mountain Power sued the EPA to stop the plan, saying utility customers would bear the $700 million cost of the changes and a state plan to reduce haze was already working.

Pruitt says he's going to let Utah study the pollution's impacts and let the state have a voice.

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Evidence Thin That Mountaintop Mining Harms Health: Coal Groups

Bloomberg BNA

By: Stephen Lee

Published: July 20, 2017

Coal industry officials are challenging the science behind an ongoing project, started by the Obama administration, to study the link between mountaintop removal mining and human health.

Namely, they say the evidence is too thin to show a definitive connection.

"Correlation does not mean causation," Jason Bostic, vice president of the West Virginia Coal Association, told Bloomberg BNA. He said the scientific uncertainty points to a fundamental problem with the available research: the difficulty of separating specific causes from specific effects.

Environmental groups like EarthJustice and Appalachian Mountain Advocates disagree, saying enough is already known about mountaintop removal mining to outlaw the practice or at least more strictly regulate its impacts on air and water.

On July 11, a National Academy of Sciences panel heard evidence from researchers broadly connecting mountaintop removal mining to higher rates of heart disease, cardiovascular disease, stroke, and death. In mountaintop removal, coal seams running through the upper portion of a mountain are mined by removing all the rock or soil on top of them.

However, the researchers who presented their work also repeatedly stressed that the data are still too thin and that more study is needed. The panel's $1 million funding was provided by the Office of Surface Mining Reclamation and Enforcement toward the end of the Obama administration, and its report is expected in March 2019.

Correlation and Causation

Luke Popovich, a spokesman for the National Mining Association, agreed the science on human health impacts remains uncertain.

"From what we learned yesterday, it's plain to us that there remain many unanswered questions surrounding the issue," Popovich told Bloomberg BNA the day after the NAS meeting.

Neither Alpha Natural Resources nor its spinoff, Contura Energy, responded to Bloomberg BNA interview requests about the National Academies study. Alpha has been the primary target of mountaintop removal mining opponents.

Several other companies contacted by Bloomberg BNA did not comment on the study.

Precautionary Principle

Adam Finkel, the executive director of the University of Pennsylvania's Penn Program on Regulation, said the precautionary principle on regulating requires that "when there is scientific uncertainty about the extent of harm or even the possibility of harm, you shouldn't let the fact of that uncertainty delay action."

Definitive findings can take years to gather, Finkel said, in part, because researchers have to wait for latent diseases to manifest themselves. In the meantime, enough facts already have been established to trigger tighter regulation of mountaintop removal mining, he said.

"I'm not sure we need epidemiology to know there's something going on here," he told Bloomberg BNA.

Mark Squillace, a law professor at the University of Colorado, agreed, telling Bloomberg BNA that the anecdotal evidence "is pretty overwhelming that people who live in these coal fields are likely to suffer ill health effects. At a minimum, we need to try to understand the causal links

better."

That view was underscored at the July 11 meeting by Bob Kincaid, president of the anti-mountaintop removal group Coal River Mountain Watch of Naoma, W.Va. Kincaid, the only member of the public who rose to speak before the panel, said people are already sick and dying throughout Appalachia because of mining.

"For us to do nothing but call for more research is unethical," Kincaid told the committee. "I suggest you get married to that notion."

Teasing Out Causes, Effects

Bostic dismissed those claims, saying the precautionary principle would also sweep up many other types of behavior.

"I'm willing to bet you all those people who got sick also have TV, cell phones, and probably eat peanut butter," he said, listing other things that could cause illness.

Paul Locke, the chair of the panel, told Bloomberg BNA that researchers often have difficulty teasing out specific causes and specific effects.

"It's hard to discriminate impacts," said Locke, a public health professor at Johns Hopkins University's Bloomberg School of Public Health. "Our committee won't be able to unpack those all."

Rather, Locke said, the group's charter is to identify the main types of coal deposits and "assess the rigor and quality" of already published medical studies on human health effects.

Cardiovascular Disease, Lung Cancer

Travis Knuckles, an assistant professor at the West Virginia University School of Public Health, told the panel that he and his colleagues had found that exposure to particulate matter from mountaintop removal mine sites could inhibit blood vessels' ability to dilate, leading to cardiovascular disease.

Similarly, W. Jay Christian, an assistant professor at the University of Kentucky College of Public Health, told the committee that the rates of lung cancer in Appalachia are "higher than we would expect."

But Knuckles also said "confounding exposures," such as how close people are to roadways and even fires and lawnmowers, could be distorting the data, and Christian said the data on lung cancer is "too meager" for firm conclusions to be drawn.

Too Little, Too Late?

Joe Lovett, executive director of Appalachian Mountain Advocates, said the National Academies' project is at least five years too late because far fewer mountaintop removal mines are in operation today. The Energy Information Administration says coal production using mountaintop removal fell by 62 percent from 2008 to 2015.

"They should've done something about it years ago, when it was a bigger problem than it is now," Lovett said.

The panel will meet again Aug. 22-24 in Kentucky.

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Obscure Coal CEO Rains Money on

Trump While Outflanking Rivals

Bloomberg

By: Tim Loh

Published: July 19, 2017

Coal mogul Joseph Craft was at a Department of Energy conference last month where everyone was reveling in President Donald Trump's call to achieve "global energy dominance."

A big-oil chief wanted more exports of America's oil and natural gas riches. A union leader called for more investments in energy infrastructure. And Craft? More coal, of course.

"We have been the backbone of the economy" the 66-year-old chief executive officer of Alliance Resource Partners LP declared. "Obviously, we can't have 'Energy Dominance' without coal."

That's Craft's bet, anyway. But he's got some credibility to talk up his book. He steered Alliance Resource through the teeth of the industry's worst downturn in generations and came out largely unscathed. For 17 straight years, Alliance has turned an annual profit and in 2016, when Peabody Energy Corp. and Arch Coal Inc. were mired in bankruptcy, the nation's sixth biggest coal miner was making more money than any of its U.S. rivals.

Little known to the general public, the camera-shy Craft is now being thrust into the spotlight. In January, he donated $1 million for Trump's inauguration. In March, he sat front and center at the Environmental Protection Agency as the president signed an executive order and declared the "war on coal" over. And he's well-connected: Craft's wife, Kelly Knight Craft, a political fundraiser in her own right, has been nominated as U.S. ambassador to Canada.

In Trump, Craft sees a return to the pro-coal policies that lured him into the industry four decades ago -- and reason to believe Alliance can keep growing into the 2020s.

"Some people don't like his style," he said of Trump at an investor conference in Florida this June. "But you can't argue with the substance."

Changing Trends

Craft's bullish view on coal runs up against staggering trends going in the opposite direction. Since 2008, U.S. production of the fossil fuel has fallen 40 percent, to 728 million tons last year. In April, coal generated just 28 percent of America's electricity, about half the share it had when George W. Bush was president. Cheap gas, wind and solar power, tougher environmental policies and flat electricity usage in the U.S. have all played a part in coal's decline. Few experts predict a rebound.

But amid the carnage, Alliance Resource is better-positioned to thrive than most peers. Its customers -- a few dozen power plants in states from Florida to Indiana, Alabama to West Virginia -- are located too far from America's prolific shale-gas fields to switch energy sources, he said at the Florida conference.

Stuck to Knitting

Craft insists he can supply them with cheap-enough coal from his eight non-union mines to make burning the rock worth their while. While Alliance's revenue and earnings declined last year -- when it cut production and its dividend to weather the collapse in demand -- he predicts the company can get back to growing production by about 5 percent annually over the next several years.

"They've stuck to their own knitting, kept their heads down and kept costs low without much debt," said Mike Dudas, an analyst at Vertical Research Partners LLC. "Without question, they've managed through the category 3 hurricane in the industry."

Craft declined to comment for this story.

His name looms large in Kentucky, where he grew up (in Hazard) and later attended the University of Kentucky. At his alma mater, the mine-engineering program has a special professorship named after Alliance Coal. The school's powerhouse basketball teams practice in the $30 million Joe Craft Center. The men's squad lives in a building Craft helped bankroll -- the "Wildcat Coal Lodge."

Political Contributions

He's long given to political candidates in Kentucky and nationally. In the 2016 campaign season, Craft donated at least $1.3 million to Republican candidates and GOP political action committees and other organizations, according to U.S. Federal Election Commission filings. His wife donated at least $500,000, including two payments totaling about $265,000 to Trump Victory, FEC filings show.

Craft's career took off while working at Mapco Inc., a pipeline company based in Tulsa, Oklahoma that had diversified into other energy sectors. He was named head of the coal division in 1986 and, 10 years later, led a management buyout of that unit. In 1999, he took Alliance public as a master-limited partnership, the industry's first such entity. The tax-friendly business model forces a company to produce consistently high levels of cash flow that it returns to investors.

Craft had inherited a company with substantial operations in the Illinois and Appalachia coal basins, where much of the coal has high levels of sulfur. That type of coal fell out of favor with many utilities after the 1990 Clean Air Act amendment that aimed to cut down on acid rain.

Scrubbing Technology

But Craft and a handful of other coal executives saw an opportunity. During the late 1990s and early 2000s, they bought up additional reserves of that high-sulfur coal on the cheap, betting successfully that more utilities would install scrubber technology to remove the sulfur-dioxide rather than ship in low-sulfur coal from as far away as Wyoming. Between 2000 and 2015,

Illinois coal production grew almost 70 percent to 56 million tons.

"He made the right move," said George Dethlefsen, CEO of Corsa Coal, which produces the metallurgical coal used in steelmaking. "He's stayed true to his strategy arguably better than anyone else in the industry."

For all the industry's complaints about tough regulation under Barack Obama, the real crusher for several coal giants was self-inflicted. In 2010 and 2011, amid skyrocketing prices tied to booming Chinese demand, Peabody Energy, Arch Coal and Alpha Natural Resources Inc. took out multi-billion dollar loans to make big acquisitions -- right before the market crashed.

Craft, displaying his characteristic restraint, stayed away from any big deals. By 2015, Alliance had methodically grown to produce a record 41 million tons, just when many of his rivals were flailing.

At the Department of Energy panel, Craft called on the federal government to prevent more coal-fired power plants from shutting down and to come up with a way to make building new ones economical.

But even with Trump's regulatory rollbacks and promises to bring coal jobs back, competitive challenges remain in a world that appears mostly united in cutting carbon emissions to combat climate change.

"He can't change that in the end," said Tom Sanzillo, director of finance at the Institute for Energy Economics and Financial Analysis. "But in the meantime, he's running a disciplined operation"

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Murray takes dispute to feds after CSX chief says fuel 'dead'

E&E News

By: Dylan Brown

Published: July 19, 2017

Murray Energy Corp. today took its problems with railroad CSX Corp. to federal regulators.

The largest private U.S. coal company requested that the Surface Transportation Board step in, saying that CSX, the largest coal shipper east of the Mississippi River, is failing to hold up its end of transportation agreements.

Murray Energy accuses CSX of causing or contributing to "countless delays and cancellations of trains" originating at its mines, despite repeated meetings with railroad leadership over the years.

Outspoken CEO Robert Murray said copies of planned litigation over performance were presented to CSX, but nothing has changed.

CSX's website states, "We have a proven track record of providing our customers with safe and efficient supply chains for moving domestic and export coal."

Murray criticized CSX CEO E. Hunter Harrison, a rail industry luminary renowned for turning around struggling companies and championing "precision railroading" — running freight trains on a strict schedule whether or not they are full.

Since Harrison became chief executive in March, "the performance of CSX has only gotten worse," Murray Energy wrote in a press release.

"This situation has become absolutely intolerable and must be resolved immediately," Murray added.

Harrison made waves today by telling investors that "fossil fuels are dead" on a quarterly earnings call.

"It's not going to be in two or three years, but it's going away in my view," he said.

CSX has no plans to invest in any coal infrastructure.

"Unless something changes drastically in the market, we're not going to go out and put a double track in, or buy locomotives or anything for coal," Harrison said. "Having said that, the last carload of coal that's shipped out of this country, I want to be the carrier that shipped it."

About 70 percent of all coal is shipped by rail, and the Association of American Railroads lists coal as the third biggest source of railroad revenue despite the industry's decline.

"We cannot sit idly by while CSX fails to provide agreed-to service, breaks their own charter from the federal government, and jeopardizes our Company's existence," said Murray, whose company flirted with bankruptcy last year, issuing potential layoff warnings to 80 percent of employees (*Greenwire*, July 8).

More broadly, Murray took issue with the sweeping control CSX has over regional rail traffic, blaming the federal government for creating "regional monopolies" in a system that cries out for "free market competition."

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Bill would quantify carbon footprint of all bills

Greenwire

By: Arianna Skibell

Published: July 19, 2017

Rep. Jared Huffman (D-Calif.) introduced legislation this week that he said would lay bare the climate change impacts of bills introduced in Congress.

The "Carbon Pollution Transparency Act," H.R. 3287, would require the Congressional Budget Office to perform a carbon analysis of bills and resolutions in the same time frame that it releases financial reports on the measures.

The CBO director would calculate a carbon score using "established best practices," like life-cycle analysis, and internationally recognized methods, such as those put out by the Intergovernmental Panel on Climate Change.

The CBO would also be required to take into account both direct and indirect expected greenhouse gas emissions from introduced legislation.

"Knowledge is power," Huffman said in a statement.

"I believe that Americans should be given the power of the full picture of the damage caused by using dirty energy sources, as well as the environmental impact of any piece of legislation considered before Congress."

Huffman also introduced the measure in 2015.

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House panel OKs waste-cutting, workforce bills

E&E News

By: Nick Bowlin

Published: July 19, 2017

The House Oversight and Government Reform Committee approved a number of bills regarding the federal workforce by voice vote this morning. They include:

- H.R. 378, the "Bonuses for Cost-Cutters Act," from Rep. Charles Fleischmann (R-Tenn.), would create a process by which agency officials who identify unnecessary government expenses and enact cost-saving measures can receive cash awards. An amendment from Rep. Jimmy Duncan (R-Tenn.) added some policies for reporting waste.

- H.R. 2897, from Del. Eleanor Holmes Norton (D-D.C.), would allow the mayor of Washington and the National Park Service director to coordinate management of Park Service land in the District of Columbia.

- H.R. 3210, from Rep. Steve Knight (R-Calif.), would require the director of the National Background Investigations Bureau to draft reports on the backlog of security clearance investigations. Rep. Raja Krishnamoorthi (D-Ill.) added an amendment to require the Office of Personnel Management to submit to Congress a report on security clearance practices. Rep. Gerry Connolly (D-Va.) added another amendment to create a study on duplicative resource use in background investigations.

- H.R. 3244, by Rep. Mark Meadows (R-N.C.), would enact annual surveys of federal employees. It passed with an amendment from Meadows to require OPM to submit potential changes to survey regulations and questions to Congress. An amendment to the amendment from Connolly would require agency heads to notify OPM of any incentives to take the survey.

- H.R. 3031, from ranking member Elijah Cummings (D-Md.), would amend the U.S. Code

to make it easier for federal employees to withdraw funds from the Thrift Savings Plan.

This was the first markup overseen by new committee Chairman Trey Gowdy (R-S.C.). It also saw the first committee appearance by new member Rep. Jimmy Gomez (D), who won the special election in California's 34th District to replace state Attorney General Xavier Becerra (D).

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Ex-GOP Cabinet official pushes carbon tax on Capitol Hill

Climatewire

By: Benjamin Hulac

Published: July 20, 2017

At a private meeting on Capitol Hill last week, former Treasury Secretary Hank Paulson pressed members of Congress to swiftly address climate change — potentially through a carbon tax, E&E News has learned.

Paulson and Gregory Page, the former CEO of agriculture giant Cargill Inc., made their case for addressing climate change at a meeting July 11 with the Climate Solutions Caucus, a bipartisan group of House members.

The ex-George W. Bush administration Cabinet official told lawmakers that "the time to act on climate change is now, and that there are credible ways to do it," Rep. Don Beyer (D-Va.), who attended the meeting, said in an interview.

The closed-door gathering is the latest example of Paulson's climate change advocacy, a cause that has occupied much of his time since he stepped down from his Treasury post in early 2009.

Paulson acknowledged the political challenges in advancing climate change legislation in Congress but said he would support efforts to put a price on carbon emissions, whether through a carbon tax or otherwise, Beyer said.

"He again seemed to be agnostic," Beyer recalled Paulson saying. "He said 'whatever works,' 'whatever is politically doable.'"

Florida Reps. Carlos Curbelo (R) and Ted Deutch (D) co-chair the caucus, also known as the "Noah's Ark Caucus," a body of 48 members. Members must find a partner from the opposing party in order to join.

Spokespeople for Curbelo and Deutch confirmed that the meeting took place but declined to comment further.

Toward the end of the session last Tuesday — held in a room on the second floor of the Rayburn House Office Building to discuss tax policy and the private sector's involvement with climate change — Curbelo and Deutch presented colleagues with a packet of eight bills, each related to climate change.

The draft bills focus on climate mitigation, adaptation and other climate issues, according to Beyer. Curbelo and Deutch told their peers they hoped they would support the legislation. Caucus members are encouraged to back the bills but are not required to do so, according to a House staffer.

"They can get behind as many as they like," the staffer said.

Curbelo is trying to transition the caucus from a forum where Republicans and Democrats can talk openly about climate change into a problem-solving phase, according to the House staffer.

"He wants this group to be more than just a discussion at this point," this person said.

Paulson made encouraging remarks, said Rep. John Delaney (D-Md.), who was at the meeting.

"He was obviously supportive of the caucus, and he was saying there are a lot of little things we can do, even if we can't do anything big right now," Delaney said in an interview.

Paulson spoke about his support for a carbon tax, according to Delaney. "He talked about what he would do if he could do something big," the congressman said.

"But he also supported the notion of continuing to build momentum on the issue, and the way to build momentum on the issue is to just keep trying to get bipartisan stuff done, even if they're not huge things," Delaney said.

Paulson wrote in 2016 to the Securities and Exchange Commission, urging the agency to squeeze useful information out of companies about how climate change affects their business (*Climatewire*, July 22, 2016). He also helped found the Risky Business Project, a climate research group, with former New York City Mayor Michael Bloomberg and billionaire environmentalist Tom Steyer.

Page is also involved with the Risky Business Project, and the pair made their presentation last week on behalf of that group, sources said.

At the meeting last week, Paulson warned that a feeble response by the United States to climate change cedes American leadership to foreign nations, according to Beyer.

The former financial watchdog said the world will follow cues from the United States on climate change, Beyer said.

"He felt that if we did show leadership, we would catalyze action," Beyer added. "He talked a lot about not sacrificing our global leadership role."

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EPA's Top Economist Seeks To Enhance Certainty Of Cost-Benefit Analyses

Inside EPA

By: Maria Hegstad

Published: July 19, 2017

As the Trump administration prepares to overhaul EPA and other agencies' cost-benefit analyses, EPA's top economist, Al McGartland, says he is working to enhance the certainty of EPA's studies for regulatory decisions, telling *Inside EPA* that the "explosion" of tools in the nascent era of big data provides both challenges and opportunities.

"I'm a big proponent for the use of [cost-benefit analysis]. Every president since Reagan has required [it] for economically significant rulemakings. I don't see that changing," McGartland, director of EPA's National Center for Environmental Economics, said in an exclusive interview.

"I think it leads to better rulemakings. I think it's a good government thing as well as helping to inform decisionmaking. It's been on a progression of getting better and better."

McGartland explains that if EPA economists are able to get "better epidemiology and better tools to deal with uncertainty . . . I think [we can] slowly raise the bar."

The Trump administration appears to agree with McGartland's call to improve certainty in

economic forecasting, at least to the extent that regulations may impose costs. For example, the administration's fiscal year 2018 budget request seeks a $662,000 increase for the Regulatory/Economic, Management and Analysis Program at EPA, with $237,000 of that devoted to helping the agency "purchase and deploy tools for economic modeling that better assess job and other economic impacts from regulations," according to the budget justification.

The document also says the administration plans to update the agency's Guidelines for Preparing Economic Analysis "to provide the Administrator with quality analysis of costs, economic impacts, jobs, changes and environmental benefits to better inform decision making and the public about the consequences of regulation."

The justification also indicates the program will "apply the best economy-wide modeling tools to assess the economic effects of environmental regulatory options."

But much of the administration's efforts to overhaul cost-benefit analysis is being criticized for placing too much emphasis on regulatory costs without adequate consideration of benefits.

For example, a group of almost 100 economists and legal scholars, many of whom served in top regulatory positions in prior administrations, recently urged the Trump administration to either revoke or amend a controversial executive order that requires agencies to repeal two rules for every new measure issued and to offset any new regulatory costs.

"[Because] Executive Order 13771 focuses exclusively on the costs of regulation, while ignoring its benefits, the Order is misguided and, if not implemented properly, will likely harm the American public," the group said in a recent letter.

Similarly, many have criticized the administration's decision to withdraw the social cost of carbon metric, which is used to estimate the benefits of rules that curb greenhouse gas emissions, though officials are still working to develop a "rigorous" method to estimate GHG damages, a top White House budget official said recently.

Environmental Economics

McGartland declined to discuss any pending policy issues, focusing instead on the practice of environmental economics.

For example, he noted some challenges to the practice. He said that when dealing with EPA cost-benefit analyses, which generally compare costs to industry against reduced health effects, "some health effects are more certain than others, how we deal with that issue, would be a big step forward."

Some health effects' linked to environmental exposures are considered causal, while some are suggestive, complicating cost-benefit analyses, McGartland explained. "Those kinds of issues sort of integrate toxicology, economics . . . it's a big interdisciplinary challenge."

The nascent era of big data also lends new opportunities and challenges to the practice, McGartland said. "Given how many environmental economists are doing this type of research, [we want to] make use of their skills and research. But the cost in an era of big data, how [different factors] affect employment, the economy, whether a specific program or even about nonpayment [versus] payment areas."

Having so much data can mean that there are "many ways you can do an experiment . . . There's this whole tool set ready to be used on EPA issues that we could use more of. . . . We can always use more information on cost-benefit analyses."

As examples, McGartland pointed to a collection of studies about the health effects of air pollution published recently by the National Bureau of Economic Research. Most of the papers were based on Chinese data, McGartland said, "because they were able to get cool data from China on air quality and heating. . . . We should be doing a lot more of these kinds of studies on U.S. issues as well."

Interdisciplinary Work

McGartland gave a hypothetical example of interest to him, based on big data he said would be available in the United States, comparing waste sites with biomarkers. "Most states these days require blood lead testing, and it is recorded at public health departments," he said. "So we have locations where these kids live, where Superfund and other waste sites are, and other types of facilities." Combining such data could have "great potential" for exploring children's blood lead levels and that of "other biomarkers, not just lead, to think about epidemiology and [EPA] program effectiveness."

Another big challenge McGartland described in his role as an EPA economist is the interdisciplinary nature of the work. "It's a lot easier for an economist to just go off and do economics, or a biologist to go off and do biology. There are different paradigms we bring to the table. The payoff for interdisciplinary [work] is huge. But we have to get past the paradigms we bring to the table."

Working at EPA "creates a nice opportunity for that" kind of challenging but important interdisciplinary work, he said.

As one example, McGartland noted the longstanding difficulty for EPA economists to include non-cancer risk estimates in cost-benefit analyses because there is no basis on which to quantify benefits. An interdisciplinary group of economists, toxicologists and risk assessors is working on the project within the Risk Assessment Forum, McGartland said.

As for other areas where outside researchers could help EPA, McGartland pointed to whole economy modeling and ecosystem services. He noted that EPA economists are awaiting the completion of recommendations in a pending report from EPA's science advisors on whole economy modeling, which is expected to contain recommendations on future research topics. "I'm looking forward to seeing the report. We're putting energies into how we can do the whole economy modeling part."

Regarding ecosystem services, McGartland said that "an ecologist might not understand why we want to value ecosystem services," another interdisciplinary field that he notes has "really taken off in the past five years or so."

To give ecosystem services greater weight in cost-benefit analyses, we "need to know how to weigh those. But [the approach is] very place based. It's hard to transfer results from the Chesapeake to other places in the country, even places like the great lakes," McGartland said. "Even if we had methodologies, we need more studies across more water bodies."

Ecosystem services is another area where researchers from the academic community could be helpful to those at EPA, McGartland said, pointing to the ability of "an army of grad students" to research and gather data.

Economic Fellowship

McGartland spoke with *Inside EPA* in late June, after being named a fellow of the Association of Environmental and Resource Economists. The fellowship is an honor that recognizes contributions to advancing environmental and resource economics.

McGartland explained that the role will not take him away from the agency, but is instead a largely honorary status bestowing "certain lifelong advantages," such as gaining "more of a platform within the environmental resource economic community, to engage them more directly. There's an expectation I would give a certain amount of talks at their meetings and things, whereas generally people are competing for time [to speak]."

Asked if the role could allow McGartland and his colleagues to encourage outside economists to work on research areas of interest to EPA, he suggested it might.

"We always welcome more research in all areas we deal in," he said. "It's an important opportunity to engage the research community more broadly. I would love to do more about educating them about EPA issues, and how their research could help more informed decisionmaking."

McGartland was quick to point to the accomplishments of his co-awardee, Parthia Dasgupta, who was knighted by Queen Elizabeth II. "I'm not in his league." McGartland also insisted that the award is a recognition not just of him, but also the work of his EPA colleagues. The award

has special significance to him, because his PhD advisor, who died about a year ago, was one of the first recipients.

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St. John chemical plant: No further steps, for now, to reduce dangerous emissions

The New Orleans Advocate

By: Della Hasselle

Published: July 19, 2017

The chemical company at the center of a controversy over air pollution in St. John the Baptist Parish is digging in against residents who are demanding it take more drastic steps to curb emissions of a likely carcinogen called chloroprene.

Officials with Denka Performance Elastomer agreed in November to spend $17.5 million on technology aimed at sharply cutting the amount of chloroprene coming from its plant in LaPlace after a study by the U.S. Environmental Protection Agency showed residents in St. John Parish had a higher risk of cancer from airborne pollutants than any other area of the country.

The EPA study, released in 2015, traced the risk to the plant, which for nearly half a century has been using chloroprene to produce neoprene, a synthetic rubber. The chemical was only classified as being particularly dangerous in 2010, amid studies suggesting it could cause lung, liver and kidney cancers.

Since then, controversy has continued to engulf the plant, with residents urging the company to take safety measures beyond those in the agreement made last year.

But in a letter made public this month, Denka officials said they would take no further steps beyond what was already promised, at least for now.

Jorge Lavastida, the company's plant manager, wrote to the Louisiana Department of Environmental Quality in late June, saying the company has already "devoted substantial resources" to emission control.

In a statement to The Advocate, Lavastida said, "These projects not only have been done voluntarily and proactively, but most companies would not even entertain the thought of spending this type of time and money without being ordered to do so."

Plans to retrofit the plant with emission reduction technology began in earnest eight months ago, when officials reached a voluntary consent agreement with state regulators. The plant pledged to reduce emissions of chloroprene by 85 percent before the end of 2017.

Some residents have said that goal isn't nearly ambitious enough, pointing to air monitoring results that have been taken since last spring by researchers with the EPA.

An analysis done in March shows that in a year's time, residents had been exposed to an average of between 12 and 58 times the amount of chloroprene the EPA says puts residents at increased risk of cancer. An 85 percent reduction still would mean "unacceptable" exposure, according to activist group Concerned Citizens of St. John.

The group asked Denka to further reduce emissions, suggesting safety measures that go beyond those laid out in the November agreement. Residents also urged the plant to reduce or stop production altogether.

In his letter to the state, Lavastida said some measures the residents had proposed would be too dangerous. He said officials still were studying the feasibility of others.

State health officials and regulators say the risk posed by the plant is unclear, arguing that the long-term effects of chloroprene exposure are not well understood, especially when levels spike and dip over time.

Measurements show the air around the plant at times has contained as much as 765 times the amount considered risky by the EPA. But sometimes, the data show no chloroprene at all.

Chuck Brown, secretary of the Louisiana Department of Environmental Quality, has accused some environmentalists of "fear-mongering."

The EPA has said "more detailed assessments are needed" to "accurately characterize" health risks caused by chloroprene.

In the meantime, more than a dozen residents filed suit against Denka in June. The suit, which seeks class action status, asks the court to force the plant to stop production until chloroprene readings go down.

"We feel this is a nuisance and trespass interfering with the community's right to live and enjoy their property," said Eberhard Garrison, one of the lawyers representing the residents.

In response to the lawsuit, Lavastida said the company had always worked within limits allowed in Louisiana.

He called the EPA's methodology in determining cancer risk "highly flawed," pointing to discrepancies between the national agency's recommendation and regulatory standards enforced by officials in Louisiana.

State regulations allow 857 micrograms of chloroprene per cubic meter for an eight-hour average — more than 4,000 times the amount the EPA says might cause harm to humans during long-term exposure, or about 70 years.

It remains to be seen whether regulatory standards in Louisiana will change as a result of further study, but Lavastida said the decision should be up to the LDEQ and EPA, not to residents.

The company is "strongly committed to taking all appropriate legal measures to defend itself against the claims," he said.

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I'm a scientist. I'm blowing the whistle on the Trump administration.

The Washington Post

By: Joel Clement

Published: July 19, 2017

Joel Clement was director of the Office of Policy Analysis at the U.S. Interior Department until last week. He is now a senior adviser at the department's Office of Natural Resources Revenue.

I am not a member of the deep state. I am not big government.

I am a scientist, a policy expert, a civil servant and a worried citizen. Reluctantly, as of today, I am also a whistleblower on an administration that chooses silence over science.

Nearly seven years ago, I came to work for the Interior Department, where, among other things, I've helped endangered communities in Alaska prepare for and adapt to a changing climate. But on June 15, I was one of about 50 senior department employees who received letters informing us of involuntary reassignments. Citing a need to "improve talent development, mission delivery

and collaboration," the letter informed me that I was reassigned to an unrelated job in the accounting office that collects royalty checks from fossil fuel companies.

I am not an accountant — but you don't have to be one to see that the administration's excuse for a reassignment such as mine doesn't add up. A few days after my reassignment, Interior Secretary Ryan Zinke testified before Congress that the department would use reassignments as part of its effort to eliminate employees; the only reasonable inference from that testimony is that he expects people to quit in response to undesirable transfers. Some of my colleagues are being relocated across the country, at taxpayer expense, to serve in equally ill-fitting jobs.

I believe I was retaliated against for speaking out publicly about the dangers that climate change poses to Alaska Native communities. During the months preceding my reassignment, I raised the issue with White House officials, senior Interior officials and the international community, most recently at a U.N. conference in June. It is clear to me that the administration was so uncomfortable with this work, and my disclosures, that I was reassigned with the intent to coerce me into leaving the federal government.

On Wednesday, I filed two forms — a complaint and a disclosure of information — with the U.S. Office of Special Counsel. I filed the disclosure because eliminating my role coordinating federal engagement and leaving my former position empty exacerbate the already significant threat to the health and the safety of certain Alaska Native communities. I filed the complaint because the Trump administration clearly retaliated against me for raising awareness of this danger. Our country values the safety of our citizens, and federal employees who disclose threats to health and safety are protected from reprisal by the Whistleblower Protection Act and Whistleblower Protection Enhancement Act.

Removing a civil servant from his area of expertise and putting him in a job where he's not needed and his experience is not relevant is a colossal waste of taxpayer dollars. Much more distressing, though, is what this charade means for American livelihoods. The Alaska Native villages of Kivalina, Shishmaref and Shaktoolik are perilously close to melting into the Arctic Ocean. In a region that is warming twice as fast as the rest of the planet, the land upon which citizens' homes and schools stand is newly vulnerable to storms, floods and waves. As permafrost melts and protective sea ice recedes, these Alaska Native villages are one superstorm from being washed away, displacing hundreds of Americans and potentially costing lives. The members of these communities could soon become refugees in their own country.

Alaska's elected officials know climate change presents a real risk to these communities. Gov. Bill Walker (I) and Sen. Lisa Murkowski (R) have been sounding the alarm and scrambling for resources to help these villages. But to stave off a life-threatening situation, Alaska needs the help of a fully engaged federal government. Washington cannot turn its back.

While I have given small amounts to Democratic candidates in the past, I have no problem whatsoever working for a Republican administration. I believe that every president, regardless of party, has the right and responsibility to implement his policies. But that is not what is happening here. Putting citizens in harm's way isn't the president's right. Silencing civil servants, stifling science, squandering taxpayer money and spurning communities in the face of imminent danger have never made America great.

Now that I have filed with the Office of Special Counsel, it is my hope that it will do a thorough investigation into the Interior Department's actions. Our country protects those who seek to inform others about dangers to American lives. The threat to these Alaska Native communities is not theoretical. This is not a policy debate. Retaliation against me for those disclosures is unlawful.

Let's be honest: The Trump administration didn't think my years of science and policy experience were better suited to accounts receivable. It sidelined me in the hope that I would be quiet or quit. Born and raised in Maine, I was taught to work hard and speak truth to power. Trump and Zinke might kick me out of my office, but they can't keep me from speaking out. They might refuse to respond to the reality of climate change, but their abuse of power cannot go unanswered.

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These genes may be why dogs are so friendly

Science News

By: Ashley Yeager

Published: July 19, 2017

DNA might reveal how dogs became man's best friend.

A new study shows that some of the same genes linked to the behavior of extremely social people can also make dogs friendlier. The result, published July 19 in *Science Advances*, suggests that dogs' domestication may be the result of just a few genetic changes rather than hundreds or thousands of them.

"It is great to see initial genetic evidence supporting the self-domestication hypothesis or 'survival of the friendliest,'" says evolutionary anthropologist Brian Hare of Duke University, who studies how dogs think and learn. "This is another piece of the puzzle suggesting that humans did not create dogs intentionally, but instead wolves that were friendliest toward humans were at an evolutionary advantage as our two species began to interact."

Not much is known about the underlying genetics of how dogs became domesticated. In 2010, evolutionary geneticist Bridgett vonHoldt of Princeton University and colleagues published a study comparing dogs' and wolves' DNA. The biggest genetic differences gave clues to why dogs and wolves don't look the same. But major differences were also found in *WBSCR17*, a gene linked to Williams-Beuren syndrome in humans.

Williams-Beuren syndrome leads to delayed development, impaired thinking ability and hypersociability. VonHoldt and colleagues wondered if changes to the same gene in dogs would make the animals more social than wolves, and whether that might have influenced dogs' domestication.

In the new study, vonHoldt and colleagues compared the sociability of domestic dogs with that of wolves raised by humans. Dogs typically spent more time than wolves staring at and interacting with a human stranger nearby, showing the dogs were more social than the wolves. Analyzing the genetic blueprint of those dogs and wolves, along with DNA data of other wolves and dogs, showed variations in three genes associated with the social behaviors directed at humans: *WBSCR17*, *GTF2I* and *GTF2IRD1*. All three are tied to Williams-Beuren syndrome in humans.

Story continues after image

NOT THE BIG BAD WOLF Scientists looked at the sociability of dogs and wolves raised by humans (one shown), and compared their DNA, to search for genes linked to dogs' sociability.

"It's fascinating that a handful of genetic changes could be so influential on social behavior," vonHoldt says.

She and colleagues propose that such changes may be closely intertwined with dog domestication. Previous hypotheses have suggested that domestication was linked dogs' development of advanced ways of analyzing and applying information about social situations, a way of thinking assumed to be unique to humans. "Instead of developing a more complex form of cognition, dogs appear to be engaging in excessively friendly behavior that increases the amount of time they spend near us and watching us," says study coauthor Monique Udell, who studies animal behavior at Oregon State University in Corvallis. In turn, she says, that gives dogs "the opportunities necessary for them to learn about our behavior and what maximizes their success when living with us."

The team notes, for instance, that in addition to contributing to sociability, the variations in *WBSCR17* may represent an adaptation in dogs to living with humans. A previous study revealed that variations in *WBSCR17* were tied to the ability to digest carbohydrates — a source of energy wolves would have rarely consumed. Yet, the variations in domestic dogs suggest those changes would help them thrive on the starch-rich diets of humans. Links between another gene related to starch digestion in dogs and domestication, however, have recently been called into question (*SN Online: 7/18/17*).

The other variations, the team argues, would have predisposed the dogs to be hypersocial with humans, a trait that humans would then have selected for as dogs were bred over generations.

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From: Bremer, Kristen
Sent: Tue 7/18/2017 3:28:09 PM
Subject: News Clips – July 18, 2017

News Clips – July 18, 2017

NO2

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•□□□□□□□□ EPA Proposal Backs CASAC's Suggestion To Retain Existing NO2 NAAQS *(Inside EPA)*

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Budget & Staffing

•□□□□□□□□ House Report Maintains Voluntary Programs Despite Embrace Of EPA Cuts *(Inside EPA)*

•□□□□□□□□ EPA Offers Buyouts to 182 Workers in Chicago, Union Says *(BNA)*

•□□□□□□□□ Sustained EPA Cuts Could Make Employees Eager for Buyouts *(Government Executive)*

•□□□□□□□□ Union boss: Hundreds of EPA employees' jobs at risk *(Washington Free Beacon)*

•□□□□□□□□ Trump staffs up DOJ's enviro division *(Greenwire)*

On the Hill

•□□□□□□□□ Ozone delay bill with Dem amendments up for House vote today *(E&E Daily)*

Other News

•□□□□□□□□ 'It's time to start trusting the states' — Pruitt aide *(E&E News)*

•□□□□□□□□ Big oil's electric fight against coal and nuclear *(Axios)*

…And in Happier News

•□□□□□□□□ Couple turns tacky outfits into trending date idea *(WTVD)*

On this day in 64 A.D., the Great Fire of Rome begins under the Emperor Nero

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'Sue and settle' critic Pruitt abides by NOx consent decree

Greenwire

By: Sean Reilly

Published: July 17, 2017

After a five-year review, U.S. EPA has proposed leaving unchanged its two primary air quality standards for nitrogen oxides.

EPA Administrator Scott Pruitt, acting under a court-ordered deadline, signed a rulemaking notice Friday, and then it was quietly posted on an agency website.

"This proposed decision has been informed by a careful consideration of the full body of scientific evidence and information available in this review," the draft rule says, citing the recommendations of EPA's Clean Air Scientific Advisory Committee and an agency assessment of recent research into the health effects of nitrogen oxides.

The proposal will have a 60-day comment period upon publication in the *Federal Register*, accompanied by a public hearing if requested. Under a settlement clinched earlier this year in response to a lawsuit by two environmental groups, EPA must have the final rule in place by next April (*Greenwire*, May 1).

NOx — with nitrogen dioxide serving as a regulatory stand-in for the broader class of gases — is a key ingredient in smog. Major sources are cars, trucks and coal-fired power plants. Exposure to low levels can irritate the eyes, nose and throat, while inhalation over a day or two can lead to fluid buildup in the lungs, according to the Agency for Toxic Substances and Disease Registry.

Under the Clean Air Act, primary air quality standards are intended to protect public health. For nitrogen oxides, EPA's annual standard of 53 parts per billion dates back to 1971, supplemented by a one-hour 100 ppb limit added in 2010.

The decision to leave the current thresholds in place represents a victory for carmakers and other industry groups. Dissenting was the American Lung Association, which had argued in a filing in November that the one-hour standard should be tightened to allow for a "margin of safety" for asthma sufferers.

NOx is among a half-dozen "criteria pollutants" named in the act. EPA is supposed to review and — if warranted — revise the thresholds for those pollutants every five years in light of available scientific research. In practice, the agency is chronically late. Under the law, for example, the NOx review should have concluded two years ago. It took the lawsuit brought last year by the Center for Biological Diversity and the Center for Environmental Health to prod the agency into agreeing to hard deadlines.

While Pruitt, like other Republicans, has derided what he calls "sue-and-settle" deals, he made no attempt to undo the consent decree that had been tentatively reached under the Obama administration and was made final in April. The same consent decree also applies to a new review of the standards for sulfur oxides, with a proposed rulemaking due by next May.

The NOx review, launched in 2012, was a relatively sleepy affair in comparison with the tumult that surrounded the agency's decision two years ago to reset the ozone standard.

By EPA's estimate, total NOx releases have fallen more than 60 percent since 1980, with the decline expected to continue as stricter vehicle emissions limits take effect. There are no areas in the United States now in nonattainment for either the annual or hourly benchmarks.

Agency officials had signaled their intent to stick with the status quo last fall with the release of a draft policy assessment that found current evidence "does not call into question any of the elements of the current standards" (*Greenwire*, Sept. 28, 2016). In a March report, the Clean Air Scientific Advisory Committee, a group of outside experts, seconded that conclusion. The policy assessment was made final soon afterward.

The secondary NOx standard, designed to protect ecosystems, was not part of the review. It remains at 53 ppb on an average annual basis.

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EPA Proposal Backs CASAC's Suggestion To Retain Existing NO2 NAAQS

Inside EPA

By: Anthony Lacey

Published: July 17, 2017

EPA is proposing to retain its existing nitrogen dioxide (NO2) national ambient air quality standard (NAAQS) set at 100 ppb over one hour, backing a suggestion from its Clean Air Scientific Advisory Committee (CASAC) to keep the current standard in place because it is adequate to protect public health as required by the Clean Air Act.

The proposed rule, posted to EPA's website July 14, says the decision to retain the existing standard "has been informed by a careful consideration of the full body of scientific evidence and information available" for its review of the NAAQS mandated by the air law. The Clean Air Act says the agency must reviewed its NAAQS for NO2 and other criteria pollutants every five years, although EPA has fallen behind schedule with some reviews.

Environmentalists sued to force a deadline for the NO2 NAAQS review which should have occurred in 2015, and a court order mandated issuance of a proposed review by July 14 and a final rule by April 6, 2018.

In the proposal, EPA says that its assessment of scientific data on NO2 emissions' health effects -- including an integrated science assessment that summarized the latest research on the pollutant, and a policy assessment (PA) that outlined options for updating the standard -- justifies keeping the 100 ppb standard in place.

EPA notes that the decision is in line with the recommendation of CASAC, which advises EPA on where to set the level and form of its six NAAQS. CASAC agreed with EPA's assessment that NO2 directly causes short-term respiratory harm, such as worsened asthma symptoms. But the advisers also said that the evidence for other health effects such as long-term respiratory damage or cardiovascular effects is less conclusive.

In a March 7 letter to EPA Administrator Scott Pruitt, CASAC said that EPA should pursue further research on possible health effects that occur below the 100 ppb limit. The Obama EPA tightened the standard to 100 ppb in 2010, using a novel one-hour averaging time, in order to protect against brief spikes in pollution. An older annual standard of 53 ppb, dating from 1971, remains in effect and is also being kept in place.

Following CASAC's advice, EPA in April published the PA that recommended leaving the NO2 NAAQS in place, and the new proposal codifies that through rulemaking.

EPA will take comment on the proposal for 60 days following its upcoming publication in the *Federal Register*, and will then weigh that input before issuing a final decision on whether to retain the existing NAAQS.

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Environmentalists Make Case For Broader 'Block 1' Power Plant GHG Rule

Inside EPA

By: Lee Logan

Published: July 17, 2017

Amid expectations that the Trump EPA will scrap the Clean Power Plan (CPP) by arguing its power plant greenhouse gas regulatory authority is limited to actions "inside the fence" of plants, some environmentalists are pushing back against the notion that such an approach would necessarily result in a rule requiring miniscule emissions cuts.

In a recent meeting with Trump administration officials over a draft proposal to rescind the CPP, one environmentalist reprised arguments that several emission reduction strategies -- such as carbon capture and sequestration (CCS) and co-firing coal plants with natural gas -- could fit within a narrow, "inside the fence" interpretation of EPA's authority under Clean Air Act section 111.

It seems unlikely that EPA Administrator Scott Pruitt would readily accept such arguments, given reports that the draft proposal undergoing White House review also includes a separate argument for repealing the Obama CPP that would exempt coal plants from any requirements if the agency is ultimately forced to write a replacement rule.

But the effort could lay the groundwork for a future legal challenge to any CPP replacement that environmentalists view as insufficiently stringent.

EPA's proposal to scrap the CPP, sent June 8 to the White House for interagency review, is expected to use a key legal critique that the agency's section 111(d) authority only allows it to base targets on actions taken at the power plant facility -- or "inside the fence." Only the rule's first "building block," which called for heat rate improvements at power plants, represents such a strategy.

The Trump EPA, as one possibility, could offer a CPP replacement that is limited to improving coal plants' heat rates and would require very little GHG cuts.

If EPA develops such a rule, environmentalists would likely challenge it as unreasonably weak, arguing that the agency has authority -- like the Obama rule claimed -- to base targets on "outside the fence" actions such as displacing coal with gas or renewables.

In addition, they could also argue that even if the agency is limited to "inside the fence" steps, the rule could encompass a wide variety of measures beyond heat rate improvements.

"We would not agree that a block 1 approach means" a revised CPP must be weak, one environmentalist says, adding that fuel switching -- such as from coal to natural gas -- "is allowed" under such an interpretation.

During a July 11 meeting with White House regulatory reviewers and EPA officials, a representative of the group Clean Air Task Force (CATF) distributed an excerpt of the group's comments on the Obama administration's proposed CPP arguing that "at a minimum," the rule's block 1 components should have included: heat rate improvements, natural gas co-firing, "retirements of affected sources" and CCS retrofits.

When the comments were first submitted in December 2014, one CATF source said they offered "options of either having stricter targets than what's been proposed or it gives the option of configuring them in ways that are better for legal defense purposes."

'Technically Feasible'

The Obama EPA in the final CPP largely rebuffed the effort to expand block 1 beyond heat rate improvements, generally finding that they were costlier than the GHG reduction strategies it finalized, including deploying more gas power and renewable energy to displace coal.

The agency in the final rule said it "found that some of these co-firing and CCS measures are technically feasible and within price ranges that the EPA has found to be cost effective in the context of other GHG rules, that a segment of the source category may implement these measures, and that the resulting emission reductions could be potentially significant."

However, it added that co-firing and CCS "are more expensive than other available measures for existing sources. This is because the integrated nature of the electricity system affords significantly lower cost options." Additionally, EPA found that "as a practical matter" if it included CCS and gas co-firing in the targets, most power plants would still likely comply with cheaper options such as substituting lower- or zero-emission power, or energy efficiency.

EPA's prior findings likely present some hurdles to any effort by environmentalists to force a rule with a broader "block 1" scope.

Even so, its findings that the strategies are "technically feasible and within price ranges that the EPA has found to be cost effective" could still enable those efforts, particularly if the agency is barred from considering "outside the fence" strategies that might be cheaper.

Prior Warnings

Observers have previously warned that CPP opponents' "fence line" argument might result in a scenario that is less than ideal for them.

For instance, Dallas Burtraw of the think tank Resource for the Future in a July 2015 blog post warned that if courts limit EPA's authority to "inside the fence" actions, "EPA might double down on the changes that are required at coal-fired power plants in order to achieve overall emissions reduction goals, and it could likely justify these changes as technically feasible with biomass and/or natural gas co-firing even if they were not ideal or efficient."

Similarly, Virginia-based Dominion Resources in an April 2016 *amicus* brief supporting the CPP slammed challengers' "rigid interpretation" of EPA's Clean Air Act authority as limited to "inside the fence" measures.

The coal-heavy utility warned that view would result in "more premature and inefficient closures" of coal plants and would be more disruptive to the power sector, compared with an "outside the fence" approach that allowed market-based trading of emission allowances.

Dominion argued that such a scenario could result in GHG targets based on heat rate improvements, fuel switching or CCS, but utilities would face restricted compliance options and could not using trading or emissions averaging.

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Trashing EPA's endangerment finding would be tough

Climatewire

By: Scott Waldman

Published: July 18, 2017

In a Washington where climate change is again a hot debate topic, there is one bulwark of climate science that may be impossible for critics to tear down.

The endangerment finding is perhaps the most forceful presence of climate science in President Trump's Washington, one backed by a Supreme Court decision and arguably harder to take on than any other climate issue the administration has fought.

Although U.S. EPA under Scott Pruitt has targeted climate regulations at a rapid pace, the endangerment finding — EPA's 2009 determination that greenhouse gases threaten public health and welfare — is a building block upon which they could be reconstructed in a post-Trump era.

The EPA boss hasn't publicly committed to targeting the finding, but he's under pressure from conservative think tanks and Trump transition team officials to take it on. In his speeches, Pruitt has focused on the uncertainties inherent in climate science to resist regulations.

But that approach won't be enough to roll back the endangerment finding, said Dan Esty, director of the Yale Center for Environmental Law & Policy.

"The ongoing uncertainties don't undo the danger that's posed by the buildup of greenhouse gases in the atmosphere," he said.

For about 200 pages, the endangerment finding lays out science explaining how the buildup in greenhouse gases is hurting humanity.

Without government regulation restricting emissions, the report concludes, humanity is very likely to suffer harm. It points to dire problems like increased heat waves, forest fires and droughts. Those changes and others are the direct result of human activity over the last few centuries, the report says. Warming has risen at an unprecedented rate over several decades.

"Most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic GHG concentrations," the report says. "Climate model simulations suggest natural forcing alone (i.e., changes in solar irradiance) cannot explain the observed warming."

Conservatives have pushed the Trump administration to challenge the endangerment finding because it is the building block for the swath of Obama-era EPA climate rules. Recently, Pruitt has signaled that he is open to the idea, though he has not said whether his agency will take it on or punt to Congress. Some see his proposed climate science review, known as a red-team, blue-team approach, as a prelude to challenging the finding.

Any attempt to weaken the endangerment finding stands to become one of the biggest battles over the environment in a Washington that's already embroiled in fights over health care, tax reform and investigations into election meddling by Russia.

And winning is no sure thing.

A legal victory over the endangerment finding would take a mountain of research, observers say. The Obama-era determination is based on more than 100 peer-reviewed scientific studies. It draws on research from the Intergovernmental Panel on Climate Change and the National Academy of Sciences. It has already withstood legal attacks and been upheld by the courts.

How would Pruitt do it?

It's unclear whether Pruitt will attempt to unravel the finding, but if he does, it would probably be by focusing on the uncertainties inherent in all scientific exercises, observers say.

Researchers ready to help Pruitt take on the endangerment finding say they want to pick apart the data used in the science behind the original document. Pruitt has already alluded to that in interviews, saying that carbon dioxide is not the "primary control knob" for the climate and that we can't precisely measure how humanity is warming the planet. He could try to discredit the assumptions around the extent of impacts from warming, as he did with his recent claim that rising temperatures don't pose an "existential threat." Maybe EPA will make the case that CO2 enhances some crop yields.

But even if he were to focus on climate science uncertainties, as he often does in interviews, he is still required to protect human health from climate change based on the overwhelming body of data, science and analysis in the administration record, said Esty of Yale.

"It would be very hard for Pruitt. He would almost certainly face immediate and substantial legal challenges, and I cannot imagine that there would be a court that wouldn't overturn a non-endangerment finding given the strength of the underlying climate change science, which points to a range of concerns, albeit with a range of ongoing uncertainties," Esty said.

David Doniger, senior attorney for the Natural Resources Defense Council's Climate & Clean Air program, said the endangerment finding is the hardest thing to undo in the climate space.

"No one on either side of this debate, except for a few of the wackos on the far-right fringe, no one really expects that these current denial views and rollbacks will last," he said. "If they're not struck down in the courts in this administration, they'll be reversed by the next one."

Inside the Trump administration, there's lingering concern that a full-blown attack on the endangerment finding could complicate the president's broader agenda on energy, like rolling back the Clean Power Plan and expanding oil and gas drilling on public lands.

Meanwhile, a drawn-out fight in the courts could propel the government toward regulating greenhouse gases if the Trump administration suffers a stinging legal rebuke, according to a senior administration official.

Foes of finding getting restless

But there are risks in not challenging the finding, too.

Conservative groups, like the Competitive Enterprise Institute, are pressing the administration to launch a lethal blow against it, because the finding undergirds all future rules to diminish the

release of warming gases into the atmosphere.

"It's not a politically easy decision to make. To say 'no' to them, that wouldn't be good," the administration official said, referring to conservative groups. "I mean, from a scientific standpoint, maybe that's an easy call. But politically, I would not like that decision. I would not like to have to make that decision. I don't want to get pushed into a corner on that at all."

Critics of the finding want it to be the administration's next target, and they're not eyeing the courts as their only route to eliminating it.

The proposal by Pruitt to create debate in climate science is a "logical first step" toward taking on the endangerment finding, said Myron Ebell, head of the Competitive Enterprise Institute, who led Trump's EPA transition team.

Ebell said much of the science used by EPA to inform the finding could be thrown out because it relies heavily on modeling, which has not been validated. He said the current data available don't justify the stringent requirements of the endangerment finding, and opponents could get a court to agree.

"The endangerment finding is what gives the executive branch not only the authority but the obligation to regulate greenhouse gas emissions, and therefore, regardless of what the Trump administration does to soften those regulations or make them much, much smaller and less damaging, they will still be there, and they will be ready to be expanded as soon as the next administration changes," he said.

Ebell also laid out the approach that Pruitt has recently hinted he might deploy to blow up the finding, which is to get Congress to determine it has never given any authority to the executive branch to regulate greenhouse gas emissions. While he acknowledged the challenge of getting a bill passed, Ebell said the administration's attempt to take on the endangerment finding could also come in the form of an appropriations rider.

The endangerment finding's supporters shouldn't be so confident about its invulnerability, said

John Christy, a climatologist at the University of Alabama, Huntsville, who has broken from the mainstream climate science view that humanity is the driving force behind climate change.

Christy said the endangerment finding was crafted by researchers with previously held beliefs and was a "political exercise," not a legitimate scientific finding, because parts were written by people appointed by the Obama administration. Christy, who said he would assist Trump administration officials taking on the finding, accused scientists who worked on it of using biased data. Christy said the primary weakness of the endangerment finding's scientific underpinning is that it does not take into account the failures of climate modeling and relies on faulty data to predict the future.

"The science does not support them to the extent that they used it," he said. "When you can prove and demonstrate that climate models used for the basis of the endangerment finding can be falsified, that would at least bring the endangerment finding back for consideration."

Scientists who worked on the endangerment finding are optimistic that it can hold up in court. None of the data undergirding the endangerment finding were falsified or biased, and the body of science that informs it has only grown stronger in the last five years, said Gavin Schmidt, director of the NASA Goddard Institute for Space Studies in New York and a federal scientific reviewer of the finding's supporting documents.

"The science and the evidence underlying the threat that continued anthropogenic emissions of carbon dioxide and other greenhouse gases make, the evidence for that is growing every day," Schmidt said.

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California Legislature extends state's cap-and-trade program in rare bipartisan effort to address climate change

Los Angeles Times

By: Melanie Mason and Chris Megerian

Published: July 17, 2017

California lawmakers voted Monday evening to extend the state's premiere program on climate change, a victory for Gov. Jerry Brown that included unprecedented Republican support for fighting global warming.

In a break with party leaders and activists in California and Washington, eight Republicans joined with Democrats to continue the cap-and-trade program, which requires companies to buy permits to release greenhouse gases into the atmosphere.

The legislation would keep the 5-year-old program operating until 2030, providing a key tool for meeting the state's ambitious goal for slashing emissions. Cap and trade also generates important revenue for building the bullet train from Los Angeles to San Francisco, another priority for the governor.

California's program is the only one of its kind in the U.S. and has been considered an international model for using financial pressure to prod industry to reduce emissions. Bipartisan support for the system comes as Republicans in Washington, including President Trump, have blocked, resisted or undermined national efforts to fight global warming.

"California Republicans are different than national Republicans," said Assembly Republican leader Chad Mayes (R-Yucca Valley), who pushed members of his caucus to work with Democrats on the issue. "Many of us believe that climate change is real, and that it's a responsibility we have to work to address it."

The legislation to extend cap and trade, Assembly Bill 398, passed 55 to 21 in the Assembly and 28 to 12 in the Senate.

Lawmakers also approved a companion measure, AB 617, aimed at reducing pollution that cause local public health problems like asthma. It passed 50 to 24 in the Assembly and 27 to 13 in the Senate.

"Republicans and Democrats set aside their differences, came together and took courageous action," Brown said in a statement before holding a celebratory bipartisan press conference in the Capitol. "That's what good government looks like."

The willingness to support cap and trade was hardly unanimous among GOP lawmakers. Only one Republican in the Senate, Tom Berryhill of Modesto, voted for the proposal. A majority of Assembly Republicans, who were involved in negotiations for weeks, did not support the plan.

But Republican backing was much stronger than in the past, when major California climate policies never gained more than one or two votes from the minority party. Some grew emotional as they spoke on the floor.

"We have to make decisions as legislators — do we do what is right or do we do what is politically right?" said Assemblyman Devon Mathis (R-Visalia), choking up during his speech.

Support for cap and trade is a bid for political relevance for Republicans who have been shut out of all positions of power in state government and have paltry prospects to regain influence.

There is a "broad consensus" among California voters that global warming merits a response from Sacramento, said Mark Baldassare, who handles polling as president of Public Policy Institute of California.

"While Democrats are more supportive of climate change policy than Republican voters overall, there's a substantial number of Republican voters [who say] climate change is real and the state should be acting," he said.

Some advocates hope California could become a political trendsetter when it comes to broader political support for fighting climate change.

"There's an important signal coming from California Republicans' willingness to engage in the conversation," said Bob Inglis, a former South Carolina congressman who leads republicEn, an advocacy organization dedicated to persuading conservatives to back climate policies.

Former Republican Gov. Arnold Schwarzenegger, who signed the 2006 legislation that provided the foundation for cap and trade, said the bipartisan vote "fills me with tremendous pride."

"We can fight for free market policies to clean up our environment for our children at the same time we fight for a booming economy," Schwarzenegger said in a statement.

Others doubt there will be ripple effects.

"Is this California leading the way with a new Republican philosophy? No," said Mike Madrid, a Republican strategist. "That's not going to happen any more than Ohio Democrats advocating for backing off of gun control measures will spread to California."

Monday's vote involved an unusual coalition for a climate change measure because Brown wanted a two-thirds vote for the legislation to insulate cap and trade from legal challenges. The bill to extend cap and trade, AB 398, received the supermajority vote Brown hoped for.

National advocacy organizations, such as the Environmental Defense Fund and the Natural Resources Defense Council, backed the legislation despite initial concerns that it wouldn't be tough enough on greenhouse gas emissions.

Also supporting the deal were powerful business groups, including the California Chamber of Commerce and associations representing manufacturers and agriculture interests. Oil companies, while not staking a public position, backed the deal behind the scenes. Although businesses have fought the program in the past, they viewed it as less costly for their bottom line than other direct regulations that have been considered to reach the 2030 goal.

Senate leader Kevin de León (D-Los Angeles) called the measure a "legislative unicorn" because of its broad support from organizations usually at cross purposes.

Meanwhile, activists at the California Environmental Justice Alliance and the Sierra Club continued to criticize the measures as too favorable to industry. Particularly troublesome to them was a provision to limit some separate regulations on refineries.

Also opposing the legislation were conservative activists disappointed to see Republicans sign on to legislation that could increase costs for Californians.

Earlier this year, Republicans almost universally opposed funding road repairs with an increase in the gasoline tax.

However, cap and trade could boost prices at the pump 24 to 73 cents a gallon by 2031, according to the nonpartisan Legislative Analyst's Office. By voting to extend the program, Republicans are weakening a potential political cudgel they could have used against Democrats during next year's campaigns, said Jon Coupal, president of Howard Jarvis Taxpayers Assn.

"They lose the moral high ground of representing themselves as representing the middle class," Coupal said.

Cap-and-trade legislation was opposed by U.S. House Majority Leader Kevin McCarthy (R-Bakersfield), who had Mayes' position in the state Legislature a little more than a decade ago.

In a letter signed by some of his California House colleagues, McCarthy said the measure would end up "raising more taxes on California drivers and families so that Sacramento has more money to spend wastefully" on building the bullet train.

Some establishment Republicans tried to provide political cover. George Shultz, a former secretary of state who has supported climate policies, wrote in a letter that the late President

Reagan "would be proud" to see cap and trade receive bipartisan support. Former California Gov. Pete Wilson also signaled his support.

Securing Republican support involved a number of concessions, including rolling back a fire prevention tax levied on landowners largely in rural areas of the state, which has long been a target for repeal by the GOP. Republicans also secured the extension of a tax credit for manufacturers, which was broadened to include some power companies.

More negotiations focused on a proposed ballot measure, Assembly Constitutional Amendment 1, that Republicans hope will give them more say over how cap-and-trade revenue is spent. The proposal was passed by lawmakers, and if approved by voters next year it would require a one-time two-thirds vote to continue spending the money in 2024.

The higher threshold could provide Republicans with an opportunity to undermine funding for the bullet train project, which counts on cap-and-trade revenue.

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House Report Maintains Voluntary Programs Despite Embrace Of EPA Cuts

Inside EPA

By: Doug Obey

Published: July 17, 2017

House lawmakers are formally spurning the Trump administration's proposal to eliminate numerous voluntary programs at EPA, including its Energy Star and Water Sense programs, signaling congressional support for the programs even though the agency's fiscal year 2018 spending bill continues a steady erosion in funding for EPA.

The House support for EPA's voluntary programs is detailed in newly released report language accompanying the House bill that imposes a roughly 7 percent cut on EPA.

The language provides something of a contrast to emerging warnings from environmentalists that that an array of remaining EPA budget cuts -- as well as pending buyouts of agency staff -- threaten to hollow out the agency despite the apparent preservation of several popular programs.

The report language recommends retaining the Energy Star program -- though in tandem with a "review" of the shared responsibilities for the program at EPA and the Department of Energy and a reduced, $31 million funding level in FY18. The committee cites as a rationale for the reduced funding level a third-party certification requirement that has directed "many product review responsibilities to outside vendors.

"The Committee continues to support the Energy STAR program and does not terminate the program as proposed," reads the report language released July 17 ahead of an expected July 18 House Appropriations Committee vote on EPA's spending bill.

The plan to retain Energy Star comes despite an FY18 budget proposal from the Trump administration that sought a 31 percent budget cut to EPA and called for zeroing out over 50 agency programs -- including popular voluntary partnership programs like Energy Star and Water Sense.

Trump's budget specifically targeted programs like Energy Star -- which provides a federal seal of approval on energy efficient appliances -- as well as Natural Gas Star, Ag Star and Water Sense. And the proposed budget also broadly called for elimination of both climate change programs and popular regional water quality initiatives to protect water bodies such as the Great Lakes, Chesapeake Bay, and Puget Sound.

The report language offers the latest indication that many proposed Trump administration cuts are not going to happen, noting, for example, House plans to fund the Great Lakes Restoration Initiative at $300 million -- the FY17 level. With respect to water quality initiatives, the Chesapeake Bay program gets $60 million in funding, a cut of $13 million below FY17, and Puget Sound receives $25 million, or $3 million below FY17.

The report, in addition to preserving Energy Star, also says more broadly that "the Committee does not support the termination of voluntary program such as Natural GasSTAR, AgSTAR, and other partnership programs where EPA works collaboratively with nongovernmental entities to identify beneficial methods to reduce emissions, pollution and increase efficiency." The language also "rejects the proposed elimination of the WaterSENSE program" which encourages water conservation in part with a seal of approval on water conserving appliances.

Other programs that get a reprieve from proposed Trump administration budget cuts include the radon program -- which the report calls for funding at FY17 levels -- and the endocrine disruptor program, which the report says will, along with EPA's computational toxicology program, be funded at FY17 levels.

But the report language is not a reprieve for many other agency efforts, expanding on plans for the roughly 7 percent cut to EPA's budget in the House spending bill.

Staff Buyouts

It also states -- in language applying to both EPA's Science and Technology account and Environmental Programs and Management Account -- that Congress "concurs with the Agency's proposed allocation of resources for workforce reshaping through buyouts and voluntary separation agreements offered to employees."

The proposed staff buyouts were a major focus on a July 17 conference call by former EPA regional officials and EDF Action to highlight concerns that the buyouts -- in tandem with the proposed budget cuts -- will substantially weaken the agency that has already lost over a fifth of its budget since 2010.

"What we are seeing, is an attempt by this administration, really led by [EPA] Administrator Scott Pruitt, to hollow out EPA," EDF Action Senior Director Elgie Holstein said, citing the proposed "7 percent cut" to the agency budget and the proposed buyouts.

Holstein said the pending buyouts could have a particularly significant effect on EPA's Office of Research and Development, by authorizing funding for 183 staff departures in that office.

More broadly, Holstein noted that despite the spending bill preserving or even increasing funding for FY18 compared to FY17, the proposed legislation would still cut EPA's science and technology function by roughly 14 percent, and slash EPA's Environmental Programs and Management by roughly 9 percent.

And Holstein said the result would be an impact on EPA's budget in real terms to levels not seen since the 1980s, despite growing agency responsibilities.

The conference call more broadly signaled the launch of a $1 million campaign by EDF Action, running through Sept. 10, in congressional districts in several states -- Arizona, Colorado, Virginia, Minnesota, Nevada, Missouri and Florida, as well as Washington, DC. That includes the California district of House Appropriations panel Interior subcommittee chairman Ken Calvert (D-CA).

But former EPA transition head and frequent EPA critic Myron Ebell of the Competitive Enterprise Institute in recent comments to the Washington Examiner said EPA's critics are planning their own push for cuts to EPA steeper than what the House is proposing, including cuts to regional office budgets.

The timeline for the public effort coincides with the possible congressional timetable for moving EPA's spending bill, and environmental advocates appeared to indicate on the call that they would have more information in coming days on the state-by-state impacts of proposed EPA budget cuts.

TSCA Rules

Report language is typically a venue for Congress to offers specific instructions on implementation of EPA programs, even in cases when the Hill supports those programs, and the

FY18 bill is no exception.

The report, for example, "encourages" EPA not to proceed with two Obama administration proposed regulations under the Toxic Substances Control Act that rely on risk assessments done in 2014, and to instead consider those chemical uses as part of the risk evaluation process underway for 10 "priority compounds" recently designated by the agency.

The report language also seeks an EPA report on progress to date on "non-animal chemical testing methods" and efforts to coordinate such approaches across federal agencies. And it encourages EPA to present Congress in FY19 with options for "new and expanded partnerships" in areas including: toxicity testing without animals; "innovative approaches to fill key gaps in assessing exposure"; and aquifer recharge.

The report language with respect to coal combustion residuals also calls on EPA to "establish, as expeditiously as is practicable, streamline procedures for prompt approval" of state programs.

The report also admonishes the agency not to engage in "grassroots lobbying," citing a 2015 Government Accountability Office Report stating that EPA in some instances has violated prohibitions against such lobbying.

Other provisions in the report language include language reiterating prior calls to "consider harmonizing" deadlines that apply to alternatives for ozone destroying refrigerants or foam blowing agents under EPA's Significant New Alternatives Policy Program; and language requesting a study on the emissions impacts of re-manufactured engines used in heavy-duty truck "glider kits," pursuant to EPA's Phase 2 rule for medium and heavy duty trucks.

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EPA Offers Buyouts to 182 Workers in Chicago, Union Says

Bloomberg BNA

By: Louis C. LaBrecque

Published: July 18, 2017

Buyout and early retirement offers have been made to 182 employees at the EPA's Chicago office, contingent on them leaving the agency by Sept. 2, a union official said July 17.

The agency's goal is to get 78 people to leave the Chicago office, Mike Mikulka, president of Local 704 of the American Federation of Government Employees, said during a news briefing with AFGE President J. David Cox Sr. and Sierra Club Minnesota Chapter Director Margaret Levin.

The cuts at the regional office in Chicago are part of a larger plan to reduce the size of the Environmental Protection Agency, Mikulka, Cox, and Levin said. President Donald Trump in his fiscal year 2018 budget proposal called for the elimination of 3,200 positions at the EPA, which now has about 15,000 employees. Although Congress isn't likely to adopt all of the cuts sought by the president, FY 2018 cuts to the agency will likely be substantial—and they likely will be followed by more cuts in subsequent years, Cox said.

Cox said the administration's FY 2018 request for the EPA would cut funding by 31 percent, or $2.6 billion, compared with FY 2017. Much of the agency's work would be shifted to cash-strapped states and local governments, he said.

Some of the Chicago office staff who got buyout and early out offers had been with the agency for more than 30 years, according to Mikulka, who said his local represents about 900 EPA employees.

Once federal agencies make buyout offers, they can't “backfill” the positions under the rules governing federal buyouts, which are intended to reduce headcounts at agencies, Cox added.

Layoffs Not ‘Off the Table’

Cox and Mikulka said they're concerned that reductions in force may be next.

"We have not had layoff notices, but I would not say that's off the table," Mikulka said. "If you have a budget that doesn't support staff, you have to lay some of them off."

The EPA didn't immediately respond July 17 to a request for comment from Bloomberg BNA.

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Sustained EPA Cuts Could Make Employees Eager for Buyouts

Government Executive

By: Eric Katz

Published: July 17, 2017

Employees are eager to accept separation incentives at the Environmental Protection Agency, according to one of the labor leaders at the agency, who said many in the workforce have become disillusioned with their employer due to a steady reduction in resources.

A House appropriations bill would slash EPA funding by $528 million in fiscal 2018, a 6.5 percent reduction. The proposal pales in comparison to the $2.5 billion, 31 percent cut Trump put forward in his budget blueprint. Still, labor and environmental groups said Monday the tamer reductions would cripple the agency, given the larger context in which they would be implemented. Lawmakers have consistently slashed EPA's budget since 2010, and if the House cuts go into effect the agency will have seen its funding reduced by 27 percent over the eight-year period.

That could mean a warm reception for the buyout and early retirement offers sent to certain EPA employees last week.

"Some people are fed up," said Mike Mikulka, president of the American Federation of Government Employees council that represents EPA workers in Chicago. "Are people going to take this? Yes, because federal employees have been demonized by Congress and interest groups and people are tired of it. You can only be beat around the head and the shoulders for so long before you say enough is enough."

EPA has set aside $12 million and will accept up to 1,227 buyouts and early retirements in fiscal 2017. Slightly more than half of the accepted separation incentives will go to headquarters employees, according to an internal memorandum obtained by *E&E News*, with the rest going to regional workers. EPA will provide its Region 3 in Philadelphia and Region 6 in Dallas with the most slots for the incentive programs. The Office of Research and Development will receive the most slots at headquarters, nearly doubling the 98 openings at the runner-up, the Office of Administration and Resource Management.

The House has set aside funding in its 2018 spending bill to enable EPA to move forward with more separation incentives in fiscal 2018. In its budget for the next fiscal year, the Trump administration proposed slashing 3,200 employees.

Agencies can offer up to $25,000 to employees who have worked in the federal government at least three years through a Voluntary Separation Incentive Payment and allow employees not otherwise eligible for retirement benefits to receive them through Voluntary Early Retirement Authority. The Office of Personnel Management must approve all early out and buyout programs, which it and the Office of Management and Budget have already done for EPA.

While Mikulka said the poor morale at EPA would lead to a high acceptance rate of separation incentives at EPA, he warned the agency would likely turn to reductions in force if it determines it needs to clear its rolls more quickly.

"If you get a budget that doesn't support the number of staff on board, the fact of the matter is you have to lay some of those people off or you can't make payroll," he said. He added the entire process will likely drain EPA of its most experienced workers.

EPA would use a formula of service computation dates minus leave to determine priority for any reductions in force deemed necessary.

J. David Cox, AFGE's national president, said that even though lawmakers appear to be more generous than Trump in their funding, they are still intentionally trying to starve the agency of resources so it can no longer do its job, leading eventually to its total elimination. The House's approach is similar to someone saying they would "cut off your entire leg, then saying, 'Well we're only going to cut off the part of your leg below the knee,' " Cox said. Next year, he predicted, "They'll be back for the rest of the leg."

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Union boss: Hundreds of EPA employees' jobs at risk

Washington Free Beacon

By: Bill McMorris

Published: July 18, 2017

The Environmental Protection Agency has sent out more than 1,000 buy-out notices to its employees as Congress debates a $528 million budget cut, according to a union executive.

American Federation of Government Employees Local 704 Michael Mikulka said that 182 EPA employees in Indiana, Ohio, Wisconsin, Illinois, Michigan, and Minnesota have received notices seeking early retirement or buy-out options that would eliminate their positions within the agency.

"The Chicago-based union executive told a press conference that the agency capped buy-outs at 79 in his region and similar letters have gone out nationwide, which could prevent additional layoffs from occurring.

"EPA wants over 1,200 of us to leave, purportedly to save money going forward and claiming that they no longer need the positions occupied by staff that in some cases worked at EPA for over 30 years," he said.

Mikulka expects that many of his members will take the buy-out deal and that the EPA will be less active as a result.

"Federal employees have been demonized by certain interest groups as well as Congress over time," he said in a joint teleconference with the environmentalist group Sierra Club. "We're going to have to do less with less."

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Trump staffs up DOJ's enviro division

Greenwire

By: Amanda Reilly

Published: July 17, 2017

The Trump administration is fleshing out the leadership team at the Department of Justice's division focused on the environment.

This month, the White House tapped Jonathan Brightbill, formerly an attorney at Kirkland & Ellis LLP, to be a deputy assistant attorney general in the Environment and Natural Resources Division, according to an email obtained by E&E News.

Brightbill will oversee the Environmental Defense Section, ENRD acting head Jeffrey Wood announced in the July 6 email sent to U.S. EPA staff. In that role, "he will be taking an active role in much of the EPA defensive cases," Wood wrote.

Brightbill was a litigation and intellectual property partner at Kirkland & Ellis since 2003. Prior to joining the firm, he clerked for Chief Judge Brooks Smith of the 3rd U.S. Circuit Court of Appeals.

In the late 1990s, he worked for more than two years at the Pennsylvania Department of Environmental Protection, where he reviewed air, waste, groundwater remediation and radiation regulations and policies.

Other recent additions at DOJ's environment division include Eric Grant, a former attorney at Texas-based boutique law firm Hicks Thomas LLP, to serve as a deputy assistant attorney general supervising appeals.

The Trump administration also this year brought on Brandon Middleton and Corinne Snow to serve as counsel at the ENRD.

Like Wood, Middleton worked for Attorney General Jeff Sessions when Sessions was a Republican senator from Alabama. Middleton was also formerly an attorney at the conservative Pacific Legal Foundation, which often brings lawsuits challenging regulations on behalf of property owners.

Snow was formerly an associate at law firm Vinson & Elkins and a clerk on the 5th U.S. Circuit Court of Appeals.

ENRD's leadership team also includes two career deputy assistant attorneys general who are holdovers from the Obama administration: Bruce Gelber, who was appointed in 2011, and Jean Williams, who began her tenure in 2010.

Brightbill's appointment comes as the Senate is considering President Trump's nomination of two other Kirkland & Ellis alums for top roles in the Justice Department.

Trump nominated Jeffrey Bossert Clark, who has been at the firm since 1996, except for a stint at the Justice Department in the George W. Bush administration, to serve as the permanent chief of the ENRD.

Clark has come under fire by Senate Democrats for past remarks that have been critical of climate change regulations and his representation of BP PLC in litigation following the company's 2010 Deepwater Horizon incident in the Gulf of Mexico.

"We are looking forward to his arrival at ENRD in the very near future," Wood wrote in his July 6 email.

Trump also nominated Beth Ann Williams, a partner at Kirkland and former special counsel on the Senate Judiciary Committee, to serve as assistant attorney general for the Office of Legal Policy, which develops broad initiatives at DOJ.

Both nominations are scheduled to come up for an initial vote in the Senate Judiciary Committee this week (*E&E Daily*, July 17).

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Ozone delay bill with Dem amendments up for House vote today

E&E Daily

By: Sean Reilly

Published: July 18, 2017

House Democrats, unlikely to defeat a bill that would push back implementation of U.S. EPA's latest ozone standard, will get the chance to hack away at it today with a half-dozen amendments.

The proposed delay, part of H.R. 806, is coupled with a package of broader changes to the Clean Air Act.

The House Rules Committee approved the structured rule for floor debate late yesterday on a 6-3 party-line vote after a brief hearing.

Among the six amendments ruled in order is one by Rep. Kathy Castor (D-Fla.) that would block the implementation delay from taking effect if an EPA advisory committee finds that it would add to health risks for pregnant women and other vulnerable populations.

Another by Rep. Jared Polis (D-Colo.) would close what he described as a loophole for the oil and gas industry on aggregation of smaller pollution sources.

Also in line for debate is a substitute measure by Rep. Jerry McNerney (D-Calif.) to strike H.R. 806 and replace it with a grant program to aid regions with particularly bad air quality.

The bill was introduced in February by Rep. Pete Olson (R-Texas) and cleared the House Energy and Commerce Committee late last month. A predecessor, H.R. 4775, won House approval last year, only to die in the Senate following an Obama administration veto threat.

Among the 24 co-sponsors of this year's measure are House Majority Leader Kevin McCarthy (R-Calif.) and two Democrats, Reps. Sanford Bishop of Georgia and Henry Cuellar of Texas.

A keystone of the bill is the provision that would effectively delay enforcement of EPA's 2015 ground-level ozone standard for most of the coming decade.

The agency had been scheduled to make attainment designations for the 70-parts-per-billion standard by this October, thereby starting the clock on statutory cleanup requirements. Olson's

measure would postpone that milestone until 2025.

Ozone, a lung irritant linked to asthma attacks in children, is the main ingredient in smog. While environmental groups have accordingly dubbed Olson's bill the "smoggy skies act," he again defended the legislation yesterday as needed to let states catch up with implementation of the previous 75 ppb ozone standard set in 2008.

The bill "is about cleaning up our air," he said at the Rules Committee hearing. "It's not about going backward; it's about charting the best path forward."

In the future, the legislation would stretch the Clean Air Act's timetable for reviewing the standards for ozone and five other key air pollutants from once every five years to once every decade.

It would also allow EPA for the first time to take technological feasibility into account when having to choose among a range of options in setting a new air quality standard.

The legislation "takes an everything-but-the-kitchen-sink approach to weakening the Clean Air Act," said Rep. Paul Tonko (D-N.Y.), an Energy and Commerce Committee member, during the hearing.

The League of Conservation Voters, echoing its view of last year's bill, urged lawmakers yesterday to reject H.R. 806 and said in a letter that it would "strongly consider" including votes on the legislation in its next annual scorecard.

The Rules Committee also blocked several proposed amendments from getting a vote today. They included a measure by Rep. Jim Cooper (D-Tenn.) to spell out that state air quality cleanup plans could incorporate local land-use policies.

Pressed for an explanation on Republicans' refusal to let the amendment advance to the floor,

Rules Chairman Pete Sessions (R-Texas) said that the bill was about ozone standards, not land use.

Since Olson introduced his bill in February, EPA Administrator Scott Pruitt has postponed the ozone standard attainment designations until October 2018. EPA is also rethinking its position on the 2015 threshold, which is the target of lawsuits both by industry and environmental groups.

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'It's time to start trusting the states' — Pruitt aide

E&E News

By: Sean Reilly

Published: July 17, 2017

U.S. EPA should use a lighter touch in its dealings with states, focusing on results instead of procedural requirements, Administrator Scott Pruitt's top aides told state regulators today.

"It's really moving from this very paternalistic view of this agency that was created, you know, 40-plus years ago," Ken Wagner, senior adviser to Pruitt on regional and state affairs, told the Environmental Council of the States (ECOS) conference.

Likening the EPA-states relationship to that of parents with grown children, Wagner added: "Lest you be living in your parents' basement at 40, it's time to start trusting the states."

Troy Lyons, EPA's associate administrator for congressional and intergovernmental relations, highlighted the importance of a partnership between the two levels of government, accompanied by "an open and honest dialogue."

The two were part of a panel discussion that also included several state regulators. While much of the conversation was couched in generalities, Wagner suggested EPA could better use its resources to audit, rather than directly review, state permitting decisions and then redirect its staff to more pressing responsibilities.

Pruitt, who in his previous post as Oklahoma attorney general repeatedly challenged EPA regulations in court, has made "cooperative federalism" a buzzword of his tenure. For proponents, the idea is geared toward allowing state agencies more flexibility to do the job of environmental protection.

Cooperative federalism "should lead to better outcomes," said Bob Martineau, commissioner of the Tennessee Department of Environment and Conservation.

But in light of Pruitt's record, environmental groups suspect the concept is a smokescreen for EPA to step back from ensuring that states — where regulated industries are often powerful political players — fully enforce federal environmental laws.

In recent months, for example, EPA has taken a more lenient line on implementation of its regional haze program, which aims to clear the skies around national parks and wilderness areas.

Under the Obama administration, EPA repeatedly imposed stricter pollution controls on coal-fired power plants than states wanted. Federal regulators are now showing more willingness to delay or relax those requirements; last week, for example, the agency agreed to give three plants in Arkansas 18 more months to meet requirements for reducing emissions of nitrogen oxides.

The change has already been noticed. During the question-and-answer period, Julie Linck, a top official with the Arkansas Department of Environmental Quality, described herself as a Chicago Cubs fan who felt as if her team had won the pennant.

"The paradigm has shifted very quickly," she said.

Less enthused was Shawn Garvin, commissioner of the Delaware Department of Natural Resources and Environmental Control, who had previously cited the need for a federal role in addressing pollution that crosses state lines.

Delaware officials are now facing changes in areas in which they thought they were on the right track, Garvin said without offering details.

"The dynamics amongst all of us in this room are kind of shifting in the opposite direction," he said.

ECOS represents the heads of state environmental agencies. The all-day conference, centered on the theme of "Reframing Our Environmental Future," drew about 160 registrants, including participants from states, EPA and industry.

In a recent report titled "Cooperative Federalism 2.0," ECOS said states should have the flexibility to chart their own paths to meeting national standards in a way that "enables them to incorporate and integrate their unique geophysical, ecological, social and economic conditions." The report also urged a prominent role for states in developing those national standards, citing their experience in communicating with the public and regulated businesses.

But the report also stressed the importance of adequate federal spending to meet statutory requirements. Absent from both the panelists' discussion and follow-up questions from the audience was any mention of the 31 percent budget cut the White House has proposed for EPA next year, including stiff reductions to state grants.

In a short interview after the panel discussion, Wagner said he is hearing about those proposed cuts "on a daily basis" but noted they still need approval from Capitol Hill.

"Before we bash our heads against the wall debating this, I think it's important to let Congress go through its process," he said.

Last week, the House Interior, Environment and Related Agencies Appropriations Subcommittee rejected the bulk of the White House's proposed EPA cuts.

The full Appropriations panel is scheduled to mark up the bill tomorrow.

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Big oil's electric fight against coal and nuclear

Axios

By: Amy Harder

Published: July 17, 2017

The American Petroleum Institute, the nation's biggest and most influential lobbying group for the oil and natural gas industry, is fighting nuclear power subsidies across the U.S., poised to oppose any efforts to expand renewable electricity, and telling the Trump administration that its study on the power grid better not hurt natural gas in an effort to help coal and nuclear energy.

Why it matters: The entry of API into the debate over power generation is a turning point in an industry long dominated by coal and nuclear energy. It's also a shift at an organization traditionally known for focusing on drilling and the transportation sector. API's members, including Exxon Mobil Corp., and Royal Dutch Shell, are increasingly producing natural gas, and now the group is fighting to make sure that fuel becomes America's dominant source of electricity.

A decade ago, coal powered almost 50% of U.S. electricity. By last year, that figure had dropped to 30%, and natural gas has made up most of the difference. Here's an Axios card deck primer on America's electricity sources.

Fueled by the oil and natural gas boom over the last decade, API began moving into the electricity business in late 2015, when it acquired another trade group, America's Natural Gas Alliance, whose sole mission was to pump up demand for natural gas. API's broader mission has come into clearer focus over the last few months in three ways.

Trump's grid study

The Energy Department is set to issue as soon as this week a study looking at the electric grid, with a focus on what the government could do to stop coal and nuclear plants from shutting down. Energy Secretary Rick Perry talks a lot about how environmental rules and renewable subsidies are hurting coal and nuclear, but the biggest driver is the bounty of cheap natural gas in stagnant electricity markets. That puts API, a typical ally of the new administration, in an ironic position.

"We certainly want to make sure there isn't some inadvertent message coming out of this study that maybe we should be worried about having too much natural gas," said Marty Durbin, executive vice president and chief strategy officer at API.

Starting last year, API began hearing concerns from utility officials and others about fuel diversity. "To us that was a buzzword to say don't be too dependent upon natural gas," Durbin said. Which is exactly what the coal industry is doing. "We have not beat up on natural gas I would say, but we certainly have pointed to an over-reliance on the fuel," said Paul Bailey, president of the American Coalition for Clean Coal Electricity.

Nuclear war

Having largely won the battle against coal, oil and gas producers are now targeting nuclear.

Since late last year, API has been fighting efforts in a handful of states to keep financially struggling reactors from shutting down before their operating licenses require. As reactors shut

down, they're being replaced mostly by natural gas. Illinois and New York have already issued policies keeping some reactors running despite API's efforts, but the group says it's been successful so far in keeping proposals at bay in Ohio, Pennsylvania and Connecticut.

In response to criticism that API is blatantly grabbing market share from nuclear power, Durbin replied: "It's nuclear that is very transparently trying to keep competitors away."

John Kotek, a vice president at the Nuclear Energy Institute, a trade group for nuclear-power companies, said nuclear provides carbon-free electricity and diversifies the grid in a way other fuels, including natural gas, don't.

Eyeing renewables

Another battle is on the horizon between API and renewable companies.

The oil group has done internal modeling concluding the five-year extension of tax credits for wind and solar companies, which Congress passed at the end of 2015, would cut demand for natural gas by 2.4 billion cubic feet a day in 2020. That's a little under 9% of the daily amount of natural gas used for electricity in the U.S. last year.

API doesn't currently have plans to lobby against the existing tax deal or to try to get states to repeal mandates that require renewable energy, which has been one of the biggest drivers for wind and solar over the past decade.

"But as states are looking at expanding or put new ones in place," Durbin said, "yes, we would want to engage in those conversations."

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Couple turns tacky outfits into trending

date idea

ABC 11 – WTVD

Published: July 17, 2017

FIGHTING PINE, Georgia -- Looking to spice up your married dating life? Try this tacky trend that's taking over social media!

One Georgia couple has #Goodwilldatenight trending once again.

Noel and Shane Pauley have been married for two and a half years. With a little baby at home, it's hard for them to get out for date night.

That's when Shane remembered something he'd seen about a couple getting outfits for date night at Goodwill and he knew they had to try it.

He was thinking of a Florida couple and their friends who initially started the hashtag in 2015.

Noel said their competitive nature took over and they even set up some strict rules.

Stick to the Budget

They each received $10 to purchase the other some spiffy new threads.

After trying on several contenders, they landed on their over the top looks for only $13 total.

Game Face

Once they were out of Goodwill, the Pauleys acted like nothing was different about their look.

They went to dinner and enjoyed their meal as if nothing was out of place. The couple said they did notice some odd looks and "side eyes" from other patrons.

Name Game

The outfits immediately inspired some names to go along with them, "Ethel" and "Roger." They stuck with the names throughout the night, which they said added to the hilarity.

The couple has enjoyed how their fun date night has inspired others to want to follow in their wacky footsteps. They've even noticed Facebook followers tagging "Ethels" and "Rogers" to get in on the fun.

The couple is encouraging others to try the fun and share their photos using the hashtag #Goodwilldatenight.

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To: Kornylak, Vera S.[Kornylak.Vera@epa.gov]
From: Werner, Christopher
Sent: Fri 3/3/2017 3:57:25 PM
Subject: RE: Regional Haze Reports
RHgeneral_March 2 2017 final_CW.docx

I pasted in info from the Feb 2017 OAR status update, and edited only to conform to the document format. **New text is in blue.** I did not change the wording of the bullets. Do you want to do that (simplify and make higher-level) or should I take a crack at it? I'm not familiar with the action but can try…

Chris Werner
US EPA – Office of Air Quality Planning and Standards

Air Quality Policy Division
(919) 541-5133
werner.christopher@epa.gov

From: Werner, Christopher
Sent: Friday, March 03, 2017 10:43 AM
To: Kornylak, Vera S. <Kornylak.Vera@epa.gov>
Subject: RE: Regional Haze Reports

Let me try and paste something in quickly and you can tell me if we can finesse it to work…

Chris Werner
US EPA – Office of Air Quality Planning and Standards

Air Quality Policy Division
(919) 541-5133
werner.christopher@epa.gov

From: Kornylak, Vera S.
Sent: Friday, March 03, 2017 10:40 AM
To: Werner, Christopher <Werner.Christopher@epa.gov>
Subject: FW: Regional Haze Reports

Chris, do you want to try to do this – or we can work together – or I can do it??

Vera

Vera Kornylak || Air Quality Policy Division || OAQPS

919-541-4067 || kornylak.vera@epa.gov

From: Koerber, Mike
Sent: Friday, March 03, 2017 10:38 AM
To: Lorang, Phil <Lorang.Phil@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>
Subject: FW: Regional Haze Reports

I just realized that the longer paper should include sections on Michigan and Minnesota, in light of the recent petition grant – i.e., these states still have ongoing issues. Can you add a short section for each? Thanks.

From: Koerber, Mike
Sent: Friday, March 03, 2017 10:34 AM
To: Stenger, Wren <stenger.wren@epa.gov>; Banister, Beverly <Banister.Beverly@epa.gov>; Nam, Ed <nam.ed@epa.gov>; Filippelli, John <Filippelli.John@epa.gov>; Weber, Rebecca <Weber.Rebecca@epa.gov>; Morales, Monica <Morales.Monica@epa.gov>; Adams, Elizabeth <Adams.Elizabeth@epa.gov>; Hamlin, Tim <Hamlin.Tim@epa.gov>
Cc: Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; South, Peter <South.Peter@epa.gov>; Lorang, Phil <Lorang.Phil@epa.gov>
Subject: Regional Haze Reports

Attached please find two background documents that we were asked to develop in order to provide the incoming administration team with information about near term actions in the

regional haze program. One document covers 13 states where either a SIP is still due, a FIP is being prepared or revised, or a FIP is being litigated. This document consists of a 1-page overview and a 3-page table. The other document provides more discussion about what is in play for 11 states. (Note, we probably need to add a section on Michigan and Minnesota to this paper.)

Sorry for the short notice, but we just prepared these yesterday and need to submit them this afternoon. I am sharing them with you so you know that we are doing this and to provide a brief window for your review. I am not looking for wording edits – I mostly want to make sure that we are factually accurate. So, please focus on the facts. **Feedback by 2 pm EST would be appreciated.**

If/when we get asked to do a formal briefing, there should be more time for collaboration with the Regions. But, today, there is only time for a quick read. Thank you for your help.

Mike

To: Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
Cc: Wood, Anna[Wood.Anna@epa.gov]
From: Gantt, Brett
Sent: Fri 3/3/2017 2:58:30 PM
Subject: RE: Today's RH assignment :-)
First Planning Period Key Actions Overview RH 3 2 17 rev2_BG1.docx

Hi Vera,

See the attached updated table with the glidepath statuses in one of the columns.

Brett

From: Kornylak, Vera S.
Sent: Friday, March 03, 2017 8:47 AM
To: Werner, Christopher <Werner.Christopher@epa.gov>; Gantt, Brett <Gantt.Brett@epa.gov>
Cc: Wood, Anna <Wood.Anna@epa.gov>
Subject: Today's RH assignment :-)

Good morning!

Thanks for all your help yesterday in developing these documents. Mike Koerber and I talked this am and he has a few requests for us to touch up the info we provided yesterday. Brett, he's got some specific glidepath asks that I want to chat with you about but that I am not optimistic that we can do today and he seemed to understand. He will plan to share docs w/ Regions around 10 am so we have until then and I can share the 'touch up' that he's interested in. Can we meet at 9 in my office? Please come if you're available.

Thanks.

Vera

Vera Kornylak || Air Quality Policy Division || OAQPS

919-541-4067 || kornylak.vera@epa.gov

To: Kornylak, Vera S.[Kornylak.Vera@epa.gov]
From: Werner, Christopher
Sent: Thur 4/27/2017 2:59:29 PM
Subject: RE: ACTION: Additional Request for NACAA on RH and EE
Final RH Paper - March 21a + CW April27.docx

Vera, here's my crack at updating the "RH General," hope this helps and let me know anything else I can do.

Chris Werner
US EPA – Office of Air Quality Planning and Standards

Air Quality Policy Division
(919) 541-5133
werner.christopher@epa.gov

From: Kornylak, Vera S.
Sent: Thursday, April 27, 2017 10:32 AM
To: Johnson, Yvonne W <Johnson.Yvonnew@epa.gov>
Cc: Palma, Elizabeth <Palma.Elizabeth@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>
Subject: RE: ACTION: Additional Request for NACAA on RH and EE

Yvonne: with regard to RH, there were several summary documents that we generated for Mandy. Mike Koerber has all of those and is probably in the best position to identify the most relevant document for Steve. That being said, Chris will update the "RH General" as we refer to it, which was last updated on 3/21, and resend that to you. It mostly has internal EPA only information but would be the most useful representation of current RH 'issues.'

Vera

Vera Kornylak || Senior Policy Advisor

Air Quality Policy Division || OAQPS

919-541-4067 || kornylak.vera@epa.gov

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From: Johnson, Yvonne W
Sent: Thursday, April 27, 2017 10:20 AM
To: Palma, Elizabeth <Palma.Elizabeth@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>
Cc: Kornylak, Vera S. <Kornylak.Vera@epa.gov>
Subject: ACTION: Additional Request for NACAA on RH and EE

We are prepping Steve for NACAA and they have a few asks (below). I know you have generated a lot of stuff recently but I wanted to see what you recommend we provide him for the request below. Please advise.

Thank you,

Yvonne W. Johnson

Special Assistant to the Director

Air Quality Policy Division

Office of Air Quality Planning & Standards

U.S. Environmental Protection Agency

919-541-3921

johnson.yvonnew@epa.gov

From: Cortelyou-Lee, Jan
Sent: Thursday, April 27, 2017 10:00 AM
To: Johnson, Yvonne W <Johnson.Yvonnew@epa.gov>
Subject: Additional Request for NACAA

Do you have a current Regional Haze pager with current issues listed?

For exceptional events – do you have anything with stats/status on EE requests? For example – Arizona?

If Steve gets asked about the status of a SIP submittal – how would you guys recommend he respond? Is this OK?

We appreciate the work that went into your submittal. We are reviewing it and will respond as quickly as possible.

Jan Cortelyou-Lee

US Environmental Protection Agency

Office of Air Quality Planning and Standards

MD-C404-03

109 TW Alexander Drive

Research Triangle Park, NC 27709

Desk: 919-541-5393

Cell: 919-368-5734

To: Wood, Anna[Wood.Anna@epa.gov]
Cc: Kornylak, Vera S.[Kornylak.Vera@epa.gov]
From: Johnson, Yvonne W
Sent: Thur 10/26/2017 9:57:47 PM
Subject: latest version of SESARM 2017 Fall _wTPs
SESARM 2017 Fall _wTPs_oct 24.pptx

Here is the latest version of the SESARM slides which incorporate Mike's comments sent on 10/25. I will let you all decide if you take any of the EO slides out (I added all that Vera sent) and she is planning to send one more.

To: Kornylak, Vera S.[Kornylak.Vera@epa.gov]
From: Mataway-Novak, Dylan
Sent: Thur 7/13/2017 4:57:35 PM
Subject: RE: Copy of Active SIPs Report as of 6-22-17.xlsx
Copy of Copy of Active SIPs Report as of 6-22-17.xlsx

Here it is!

Dylan Mataway-Novak

Environmental Protection Specialist

U.S. EPA/OAQPS

Air Quality Policy Division, Operating Permits Group

Email: Mataway-Novak.Dylan@epa.gov

Phone: (919) 541-5795

From: Kornylak, Vera S.
Sent: Thursday, July 13, 2017 12:27 PM
To: Mataway-Novak, Dylan <Mataway-Novak.Dylan@epa.gov>
Subject: Copy of Active SIPs Report as of 6-22-17.xlsx

To: Kornylak, Vera S.[Kornylak.Vera@epa.gov]
From: Johnson, Yvonne W
Sent: Tue 9/19/2017 6:46:18 PM
Subject: NACAA 2017 Fall Full Deck w_TPs_sept 18.pptx
NACAA 2017 Fall Full Deck w_TPs_sept 18.pptx

Latest version

To: Johnson, Yvonne W[Johnson.Yvonnew@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]
From: Kornylak, Vera S.
Sent: Fri 10/27/2017 12:59:00 PM
Subject: RE: latest version of SESARM 2017 Fall _wTPs
SESARM 2017 Fall _wTPs_oct 24+Final EO Slides.pptx

Here are the final slides – I added a slide and edited a few on the EO section.

Vera

Vera Kornylak || Senior Policy Advisor

Air Quality Policy Division || OAQPS

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From: Johnson, Yvonne W
Sent: Thursday, October 26, 2017 5:58 PM
To: Wood, Anna <Wood.Anna@epa.gov>
Cc: Kornylak, Vera S. <Kornylak.Vera@epa.gov>
Subject: latest version of SESARM 2017 Fall _wTPs

Here is the latest version of the SESARM slides which incorporate Mike's comments sent on 10/25. I will let you all decide if you take any of the EO slides out (I added all that Vera sent) and she is planning to send one more.

To: Wood, Anna[Wood.Anna@epa.gov]
From: Kornylak, Vera S.
Sent: Thur 3/9/2017 12:52:45 PM
Subject: RH Litigation Summary 3 9 17.docx
RH Litigation Summary 3 9 17.docx

Anna: attached is the litigation summary prepared by OGC. I haven't yet reviewed it since it came in late yesterday. I think it's a very useful resource but not sure it needs to go to the Administrator as part of this package of papers we're preparing. Melinda and company pulled from this doc a few key bullets for the paper for the Administrator. That being said, I would recommend sharing this with Mike and also keeping it for yourself. I'll review it this morning and see if anything jumps out at me.

Vera

Vera Kornylak || Air Quality Policy Division || OAQPS

919-541-4067 || kornylak.vera@epa.gov

To: Mataway-Novak, Dylan[Mataway-Novak.Dylan@epa.gov]
From: Kornylak, Vera S.
Sent: Thur 7/13/2017 4:26:32 PM
Subject: Copy of Active SIPs Report as of 6-22-17.xlsx
Copy of Active SIPs Report as of 6-22-17.xlsx

To: Wood, Anna[Wood.Anna@epa.gov]; Herndon, Godfrey[herndon.godfrey@epa.gov]
Cc: Gray, Stuart[Gray.Stuart@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]
From: Kornylak, Vera S.
Sent: Wed 7/12/2017 1:42:43 PM
Subject: Copy of Active SIPs Report as of 6-22-17.xlsx
Copy of Active SIPs Report as of 6-22-17.xlsx

Anna,

I talked with Amy B. and figured out the issue with the spreadsheet – there was a filter inserted for 2017 KPIs so it was only showing those actions. I've now adjusted the filter and this spreadsheet represents ALL the backlogged + nonbacklogged SIP actions.

I'm including Godfrey on this email because I'd like him to print this spreadsheet for you. It should be sorted by category (e.g., clear path, at HQ for review etc…). Godfrey, can you please do that for me?

Stu is counting up the SIPs at HQ for review that correlate to dashboard items to double check R7's work on that. I'm cc:ing Stu here so he has the unfiltered document as well.

Anna, perhaps you and I can circle later in the day about what makes sense for an update on the total active SIPs.

Vera

Vera Kornylak || Senior Policy Advisor

Air Quality Policy Division || OAQPS

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To: Johnson, Yvonne W (Johnson.Yvonnew@epa.gov)[Johnson.Yvonnew@epa.gov]
Cc: Wood, Anna[Wood.Anna@epa.gov]
From: Kornylak, Vera S.
Sent: Tue 9/19/2017 7:05:43 PM
Subject: NACAA 2017 Fall Full Deck w_TPs_sept 18+Vera.pptx
NACAA 2017 Fall Full Deck w_TPs_sept 18+Vera.pptx

Yvonne:

I made changes to

-EE slide 12 – added a talking point on mitigation plans and edited the bullet on that slide

-RH slide 21 – added update on the litigation to the talking points

I separately sent to you that I think should be included as part of Anna's packet:

-AAPCA EE meeting follow-up talking points

-Recently updated SIP paper

Vera

Vera Kornylak || Senior Policy Advisor

Air Quality Policy Division || OAQPS

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To: Lucas, Debra[Lucas.Debra@epa.gov]
From: Hestmark, Martin
Sent: Fri 10/20/2017 7:27:22 PM
Subject: FW: OPRA Hot Issues
OPRA Issue Paper_WY Ozone IT Disapproval - 8-8-17 Update.docx
Issue Paper_UT RH litigation_Feb 2017.docx
Issue Paper_UT Hunter Petition.docx
Issue Paper_MT iSIP Litigation.docx
Issue Paper_WY RH litigation_Feb 2017.docx
Issue Paper Wintertime Ozone in the Uinta Basin.docx
Region 8 NAAQS_for RA.docx
Region 8 Nonattainment areas 10-1-2017.docx

Deb - could you pr8int all of these out except Wintertime Ozone/U&O?

From: Daly, Carl
Sent: Monday, October 16, 2017 1:53 PM
To: Hestmark, Martin <Hestmark.Martin@epa.gov>
Cc: Lucas, Debra <Lucas.Debra@epa.gov>; Morales, Monica <Morales.Monica@epa.gov>
Subject: OPRA Hot Issues

Here are the updated OPRA hot issues that are closed currently awaiting a decision on the RA's recusal.

Here is the one active issue from OPRA (U&O FIP):

And here are a couple of other Air issue papers posted in the OPRA folder:

Carl Daly, Deputy Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance
EPA, Region 8
303-312-6416

From: Bremer, Kristen
Sent: Tue 8/1/2017 3:06:55 PM
Subject: News Clips – August 1, 2017

News Clips – August 1, 2017

Oil & Gas

- EPA ordered to enforce Obama-era methane pollution rule *(CNN)*
- Divided D.C. Circuit Issues Mandate To EPA For Reinstating Methane NSPS *(Inside EPA)*
- Court orders EPA to enforce methane standards *(Energywire)*

Clean Power Plan

- Industry to EPA: We want rule 'fixed, not just gone' *(Climatewire)*
- Trump aides huddle with utility group leaders *(Greenwire)*
- In Symbolic Move, California To Submit Final CPP Compliance Plan To EPA *(Inside EPA)*

Coal

- Did Trump just get a win on coal? *(Climatewire)*
- Ukraine Turns to Pennsylvania Coal Imports Amid East Blockade *(BNA)*

Climate Change

- Scientists ask Pruitt for sit-down on climate debates *(E&E News)*
- Skeptical scientists are lukewarm on Trump *(Climatewire)*
- There's a 5% chance of holding temps at 2 C — study *(Climatewire)*

•□□□□□□□□ Islamic State and Climate Change Seen as World's Greatest Threats, Poll Says *(New York Times)*

•□□□□□□□□ Here's where climate change could generate toxic air pollution *(PBS News Hour)*

Regional Haze

•□□□□□□□□ Court allows EPA 2-month freeze in Ark. haze suit *(Greenwire)*

Regulations

•□□□□□□□□ The Energy 202: How Pruitt's hustle to deregulate the EPA may bite him *(Washington Post)*

•□□□□□□□□ Pruitt's Deregulation Spree Has Cut Corners *(Slate)*

•□□□□□□□□ States ask court to toss Congressional Review Act lawsuit *(E&E News)*

Other News

•□□□□□□□□ Dingell proposes legislation to prevent closure of EPA offices *(Michigan Live)*

•□□□□□□□□ EPA won't be able to do the 'right thing' under Trump, says latest protesting official *(Washington Post)*

•□□□□□□□□ Foes in bitter Ala. GOP primary agree they hate EPA *(E&E Daily)*

•□□□□□□□□ Trump Wants the EPA Radon Program Cut. So Do Some Scientists *(Wired)*

…And in Happier News

•□□□□□□□□ Chicago Cubs Give Steve Bartman a World Series Ring *(New York Times)*

EPA ordered to enforce Obama-era

methane pollution rule

CNN

By: Rene Marsh

Published: August 1, 2017

*(CNN)*The EPA must enforce Obama era pollution limits for the oil and gas industry, a federal court said Monday.

Nine of the 11 judges of the United States Court of Appeals for the District of Columbia Circuit issued the latest ruling after a ruling by the court in July that the EPA unlawfully tried to delay implementing the Obama-era methane pollution rule.

The rule sets limits for greenhouse emissions for the energy industry, and requires companies to identify and fix leaks. In June, EPA Administrator Scott Pruitt sought a two-year pause on the new methane rule so the agency could "look broadly" at regulations and review their impact.

The D.C. federal court's ruling was a victory for environmentalists and suggests rolling back environmental regulations wholesale will be difficult for the Trump administration.

"Today's issuance of the mandate by the full D.C. Circuit protects families and communities across America under clean air safeguards that EPA Administrator Scott Pruitt sought to unlawfully tear down," said Peter Zalzal, lead attorney for the Environmental Defense Fund, one of the groups that challenged the EPA.

CNN reached out to the EPA for comment but had not received a response by late Monday.

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Divided D.C. Circuit Issues Mandate To EPA For Reinstating Methane NSPS

Inside EPA

By: Anthony Lacey

Published: July 31, 2017

A majority of the full U.S. Court of Appeals for the District of Columbia Circuit has granted a request from some states and environmentalists to issue its mandate vacating the agency's 90-day pause of key requirements in its methane rule for new oil and gas sources, putting the rule back into effect -- though two judges opposed the decision.

In an order issued late July 31, the court *en banc* directed its clerk to issue the mandate from a three-judge panel's ruling earlier this month that scrapped the Trump EPA's stay of the rule. Circuit Judges Janice Rogers Brown and Brett Kavanaugh objected to issuing the mandate, according to the order.

The decision is a victory for supporters of the Obama EPA's first-time rule limiting emissions of the greenhouse gas methane from new oil and gas drilling, and reinstates various deadlines for complying with several provisions of the rule, including requirements for companies to submit leak detection surveys.

Environmentalists and several states earlier July 31 filed motions with the court urging it to issue the mandate, which is the formal step of implementing the three-judge panel's ruling from July 3 that vacated a Trump EPA rulemaking that had stayed the new source performance standards (NSPS) rule. The court in its prior ruling said that the stay violated the Clean Air Act by improperly using section 307(d)(7)(B) to delay the rule.

The three-judge panel consisted of Circuit Judges David Tatel, Robert Wilkins and Brown, with the first two judges ruling at the time to immediately issued a mandate that EPA lift the stay.

Brown dissented, arguing the court lacked authority to review the stay because it was linked with the Trump EPA's reconsideration of the NSPS and thus was not a final action subject to judicial review.

EPA subsequently asked the panel to recall its mandate, arguing that the agency should be afforded the standard time to evaluate options for appeal before the mandate is issued. Federal agencies are allowed 45 days to petition for panel rehearing, rehearing *en banc* or for writ of *certiorari* at the Supreme Court, and EPA argued that the court typically does not issue its mandate until one week after that deadline passes. The agency's request also said the immediate mandate placed the oil and gas industry at risk of noncompliance.

The court temporarily recalled the mandate, and several industry groups and some states then filed petitions for rehearing of the three-judge panel by the full D.C. Circuit, although EPA did not file such a request.

Environmentalists and other states then filed their July 31 motions claiming that the *en banc* rehearing requests were an unfair attempt to further delay implementation of the NSPS, asking the court to instead issue the recalled mandate.

The court's July 31 order issuing the mandate also says that responses to the petitions for rehearing of the decision by the full court should be filed no later than 4 p.m. on Aug. 2, with replies to those responses due no later than 4 p.m. on Aug. 3.

The order was reviewed by the full D.C. Circuit consisting of Chief Judge Merrick Garland and Circuit Judges Karen LeCraft Henderson, Judith Rogers, Tatel, Brown, Thomas Griffith, Kavanaugh, Sri Srinivasan, Patricia Millett, Cornelia Pillard and Wilkins. The order notes that only Brown and Kavanaugh “would not issue the mandate forthwith.”

Although the court's July 3 ruling vacated EPA's stay of the NSPS, the agency is also pursuing rulemakings to codify pausing the regulation for up to two years. Observers say EPA likely will not be in a position to finalize those proposals until the end of August at the earliest. The deadline to file comments on the measures is Aug. 9.

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Court orders EPA to enforce methane standards

Energywire

By: Ellen M. Gilmer

Published: August 1, 2017

The Trump administration must enforce Obama-era restrictions on greenhouse gas emissions from the oil and gas industry — at least for now.

The U.S. Court of Appeals for the District of Columbia Circuit last night issued a mandate striking down U.S. EPA's attempt to pause methane restrictions for the sector. The agency's 90-day stay of key provisions of New Source Performance Standards is now formally vacated, and the rule is in effect.

According to the D.C. Circuit, EPA exceeded its authority when it paused the rule to consider industry concerns (*Greenwire*, July 3). The three-judge panel reached that conclusion in early July but had given EPA extra time to weigh its legal options before enforcing the regulation — which the Trump administration ultimately plans to reconsider through a public process.

States and industry intervenors that oppose the Obama administration rule last week asked all the court's active judges to rethink the decision. To the surprise of many court watchers, EPA has not made its own request.

Nine of the court's 11 active judges last night decided to issue the panel's mandate and unfreeze the methane rule. But the court is still weighing intervenors' request for rehearing and asked environmental groups and a coalition of states to file a response by tomorrow afternoon. The

order notes that Judges Janice Rogers Brown and Brett Kavanaugh, both George W. Bush appointees, would not have issued the mandate.

The legal back-and-forth means continued uncertainty for the oil and gas industry, which for months has aggressively lobbied EPA Administrator Scott Pruitt to scrap the standards, which are designed to reduce methane leaks from wells and other infrastructure. The American Petroleum Institute and other critics have argued that Obama's EPA ignored voluntary efforts oil and gas operators were taking to slash emissions.

"API continues to support an extension of the compliance deadlines, as a stay or extension is appropriate to allow EPA time to review and, as necessary, revise the 2016 EPA final rulemaking," Howard Feldman, API's senior director for regulatory and scientific affairs, said in a statement last night.

Feldman added that EPA's separate, ongoing consideration of a two-year stay of the methane standards will avoid "subject[ing] businesses to on-again, off-again, requirements until EPA can reconsider the rule."

Environmental groups, meanwhile, celebrated the news as a win for climate and clean air protections.

"Today's issuance of the mandate by the full D.C. Circuit protects families and communities across America under clean air safeguards that EPA Administrator Scott Pruitt sought to unlawfully tear down," Environmental Defense Fund attorney Peter Zalzal said in a statement.

EPA did not respond to a request for comment.

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Industry to EPA: We want rule 'fixed, not just gone'

Climatewire

By: Zack Colman

Published: August 1, 2017

Industry has delivered a clear message to the Trump administration during a series of recent closed-door meetings: Don't completely gut the Obama-era Clean Power Plan.

To be sure, leading industry associations are pushing White House and U.S. EPA officials to drastically roll back the landmark climate change rule. They're advocating a new approach that still limits power plants' emissions but is narrower than the one envisioned by President Obama's team.

The heavy-hitting U.S. Chamber of Commerce and the National Association of Manufacturers advocated an "inside-the-fence" approach to power plant regulations during a July meeting with the Office of Management and Budget and EPA staff, they told E&E News. Critics of the Obama rule have argued that it overstepped by allowing emissions reductions "outside the fence line" of coal-fired power plants.

"We were trying to also lay the foundation for what we think would be an acceptable replacement rule because we want to see this rule fixed, not just gone forever," Ross Eisenberg, vice president of energy and natural resources policy with NAM, said in an interview.

Matt Letourneau, spokesman for the Chamber's Institute for 21st Century Energy, said in an email: "It's safe to say we" pushed for inside-the-fence-line.

In rescinding the rule, EPA chief Scott Pruitt plans to argue that the Obama administration went too far in setting carbon reduction goals by looking at what the broader power system could achieve instead of focusing solely on improvements at coal plants, an administration official told E&E News in June (*Climatewire*, June 12).

The recently publicized meetings with industry hint of a nearing Trump administration decision on how and whether to regulate carbon emissions from power plants, though devising a formal rule could take several months. While OMB and EPA meet with a variety of interest and business groups affected by pending regulations, the Chamber and NAM carry considerable weight in the business community that President Trump has courted.

The Trump administration is facing pressure from conservatives to trash EPA's endangerment finding, which gives the agency the authority to regulate greenhouse gas emissions. If the Trump administration adopts an inside-the-fence approach, it would mean those angling to challenge the endangerment finding have lost a key battle.

The meetings came after recent reports that EPA was planning to pursue a legal strategy known as the "112 exclusion," which argued the agency couldn't regulate power plants under Section 111(d) of the Clean Air Act — as the Clean Power Plan proposed — because they were already hit with limits for mercury and air toxins under Section 112.

Those pushing for a full Clean Power Plan repeal have acknowledged that a twin effort to scrub the endangerment finding may be necessary to ward off lawsuits that EPA wasn't doing enough to address emissions. A move to develop any carbon rules for power plants, however, would amount to an implicit admission that greenhouse gas emissions deserve curbing.

"If they had already decided that's what they wanted to do, then there would be no reason to develop this inside-the-fence-line approach," Jeff Holmstead, a partner at Bracewell LLP and former EPA air chief under President George W. Bush, said in an interview.

The White House referred E&E News to EPA, which did not return a request for comment.

'Skepticism' about axing endangerment finding

EPA officials under Obama argued the electricity system required regulation as an

interconnected entity, thereby achieving emissions reductions beyond power plants' physical parameters. Opponents, though, said that view was too expansive — some have argued regulations must apply to power plants themselves, while others maintain EPA lacks authority to regulate power plant carbon emissions because it already caps mercury emissions.

Utilities have pushed for the inside-the-fence-line approach rather than a full dismantling of the Clean Power Plan because they say it provides more certainty. They argue that something like requiring on-site efficiency improvements could prevent future presidents from pursuing ever-more aggressive rules. Detractors in the environmental community note, however, that emissions reductions under this scenario would be small.

The Edison Electric Institute, a trade group representing investor-owned utilities, declined to say what it advocated for in its July 26 meeting — for which White House energy adviser Mike Catanzaro was present — though it has in the past advocated for an inside-the-fence tactic.

An industry source who wasn't present for that meeting noted Catanzaro had expressed "skepticism" about the administration's ability to overturn the endangerment finding. The source said Catanzaro was concerned about getting into endless litigation, as the administration would need to compile anthologies of climate change science that refuted greenhouse gas emissions' effects on a warming planet — a heady if not impossible task.

That said, the industry source wasn't ready to take bets on where the administration would end up on the Clean Power Plan.

"There's wide agreement among the utility industry that inside-the-fence-line would make more sense," the source said. "But there's certainly other people pushing for a different approach, including people who have sway with this White House. I'd be very cautious saying anything definitive."

An inside-the-fence-line plan is "ultimately not enough in the long term" when it comes to restricting regulation on energy, said Tom Pyle, president of the conservative Institute for Energy Research. Pyle said in an interview that he's "not surprised" the business community is lobbying for that approach, though.

"Obviously wherever as aggressively EPA could go is where I'd be comfortable with," said Pyle, who also ran Trump's Energy Department transition team, stating his desire to whack the endangerment finding.

Some haven't given up hope on the Section 112 exclusion and an ultimate challenging of the endangerment finding. Myron Ebell, director of the Competitive Enterprise Institute's Center for Energy and Environment, said in an email that the White House could ask for input on both the inside-the-fence-line approach and Section 112 exclusion in the public comment portion of the rulemaking process after rescinding the Clean Power Plan.

To environmental groups, a move to regulate inside the fence line would signal that the administration is taking policy cues from industry rather than the far right. Utilities and manufacturers, after all, were chief advocates of such a plan when the Obama administration rolled out its regulation, which sought a 32 percent reduction of power plant emissions below 2005 levels by 2030. That largely relied on shifts from coal-fired power to natural gas and renewable energy.

"An inside-the-fence-line approach with an argument in the alternative that industry lacks authority to regulate carbon emissions under Section 111 follows the industry talking points to a T," John Walke, senior attorney and clean air director with the Natural Resources Defense Council, said in an interview.

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Trump aides huddle with utility group leaders

Greenwire

By: Arianna Skibell

Published: July 31, 2017

The latest White House meeting to discuss pulling back on U.S. EPA's Clean Power Plan involved President Trump's energy honcho Mike Catanzaro and the electric utility industry.

Officials with EPA and the Office of Management and Budget, along with Catanzaro, met with representatives from the Edison Electric Institute on July 26, according to records posted online by OMB. The parley marks the latest of at least nine meetings on the White House plan to rescind the EPA regulation to curb carbon emissions of power plants.

Catanzaro, once employed by K Street shop CGCN Group, was one of 17 senior officials granted a waiver to work on issues he focused on as a lobbyist, including the Clean Power Plan (*Greenwire*, June 1).

Catanzaro's lobbying disclosure forms from the fourth quarter of 2016 reveal that he worked on methane regulations and offshore drilling regulation and promoted oil and gas development on public lands. While serving as a staffer under Sen. Jim Inhofe (R-Okla.) on the Environment and Public Works Committee, Catanzaro authored many articles for the conservative website Human Events, in which he strongly questioned the reality of climate change.

The EEI officials included Director of Climate Programs Eric Holdsworth, Director of Environment Quin Shea and Associate General Counsel Alex Bond, among others.

Trump signed an executive order in March directing EPA to review the Clean Power Plan, and EPA sent OMB official notice last month for a proposed rulemaking to roll back the climate regulation (*Greenwire*, June 9).

OMB typically holds meetings with interested parties before issuing a draft rule as part of its review process. EPA Administrator Scott Pruitt has cast doubt in the past as to whether his agency has the tools to regulate greenhouse gases, leaving it an open question whether he will replace the signature Obama climate rule.

Earlier this month, Trump administration officials held meetings with representatives of the American Lung Association, Georgetown Climate Center, U.S. Chamber of Commerce and

Clean Air Task Force.

Georgetown Climate Center Executive Director Vicki Arroyo and Deputy Director Kathryn Zyla brought a letter for OMB Director Mick Mulvaney urging him to keep the Clean Power Plan intact.

The letter was signed by environmental officials from 12 states: California, Colorado, Connecticut, Delaware, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Virginia and Washington.

"Addressing climate change does not harm the economy — quite the opposite," officials wrote in the letter.

"We have seen that actions to reduce carbon emission also have economic benefits, and the Clean Power Plan reflects our collective experience."

In a July 13 meeting, Trump officials met with Dan Byers and Heath Knakmuhs. Byers is charged with leading the U.S. Chamber's Global Energy Institute's efforts to promote and maintain the use of coal in American energy production, while Knakmuhs focuses on the electric grid and transmission policy.

In June, government officials met with attorneys from the Environmental Defense Fund, Tomás Carbonell and Martha Roberts, who both work on climate and regulatory issues. The following day, officials met with Sierra Club attorneys Joanne Spalding and Alejandra Núñez, as well as Liz Perera, the green group's climate policy director (*Greenwire*, July 10).

Also in June, OMB officials met with representatives from the Natural Resources Defense Council and E2, a business group that pushes for clean energy (*Greenwire*, June 28).

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In Symbolic Move, California To Submit Final CPP Compliance Plan To EPA

Inside EPA

By: Lee Logan

Published: July 31, 2017

California has approved its state compliance plan for EPA's Clean Power Plan (CPP) greenhouse gas rule for existing power plants, a largely symbolic step though officials say it nonetheless shows other states that cutting power sector GHGs is achievable under the stayed rule that the Trump administration is expected to soon propose to repeal.

The move also is another form of push-back against Trump EPA efforts to target the CPP and other Obama-era climate rules, according to officials with the California Air Resources Board (CARB).

"This is a plan that the federal government doesn't really want to receive but we want to send it to them anyway," said CARB Chairwoman Mary Nichols during a July 27 board meeting. "We think the regulation it was developed under was a good regulation."

Although California's CPP compliance strategy was initially considered highly influential, the Supreme Court's February 2016 stay of the rule and the subsequent election of President Donald Trump has significantly hobbled implementation of the EPA regulation.

Attention now is keenly focused on whether the current administration's forthcoming plan to rescind the rule will ultimately survive legal scrutiny. Even if it does not, the rule's compliance deadlines might need to be postponed, and the CPP compliance targets likely will have been nearly achieved by market-driven shifts to lower-carbon power.

But CARB officials noted the prospect of major federal climate regulation from a future administration, arguing that submitting their CPP compliance strategy to EPA now could inspire other states to do the same.

The compliance plan's submission can show that "action on climate mitigation can benefit the states and make them well positioned to comply with future federal climate action," CARB Executive Officer Richard Corey said at the meeting.

The plan -- which is similar to state implementation plans to achieve national air quality standards under the Clean Air Act -- "explicitly demonstrates how a cap-and-trade system could be utilized for Clean Power Plan compliance purposes," Corey added.

State Programs

California's plan relies on the CPP's provisions allowing states to use "state measures" to achieve the rule's targets. In the Golden State's case, that means it largely relies on its economy-wide cap-and-trade system to show that the power sector's GHGs will be reduced to the federal targets, according to a CARB staff summary.

However, state officials project that actual emissions will fall below the CPP targets, in part due to the state's aggressive climate policies. All of the rule's targets are "well above" power plant emissions today and "will remain well above them" in the foreseeable future, one CARB staffer said at the meeting.

Nevertheless, EPA required California to include a "backstop" provision in its CPP plan in the event that the state policies did not meet the rule's targets. That backstop would take the form of an additional trading-based program focused only on the power sector. The staffer described the backstop as "extremely unlikely" to be triggered.

The staffer said that litigation over the rule -- which is on hold while EPA determines how to proceed on a new regulation to scrap the CPP -- "should not deter California from being compliance ready."

Further, the final plan shows that "compliance with the CPP is appropriate and doable."

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Did Trump just get a win on coal?

Climatewire

By: Benjamin Storrow and Dylan Brown

Published: August 1, 2017

A deal to provide 700,000 tons of coal to Ukraine's state-owned utility provides a much-needed boost to northern Appalachia's ailing mining companies. It also helps President Trump fulfill a top campaign promise.

The agreement between Xcoal Energy & Resources LLC, a Pennsylvania-based marketing firm, and Centrenergo PJSC follows years of falling domestic demand and represents one of the Trump administration's most consequential forays into the coal market to date, industry analysts said.

While Trump has made headlines for rolling back a host of Obama-era climate regulations, those moves have done little to alter the long-term trajectory of an industry devastated by low natural gas prices and mounting competition from renewables. The Ukrainian deal, by contrast, ensures a new customer for coal companies at a time when buyers are increasingly scarce.

"It would be one of the first direct impacts they have had," said Joe Aldina, an analyst who tracks the coal industry at S&P Global's PIRA Energy Group.

To be sure, 700,000 tons is a relatively small figure in the context of the U.S. coal market, where

American miners last year produced in excess of 700 million tons. Production in northern Appalachia, where much of the coal for the deal is likely to be mined, was nearly 42 million tons last year. And the Ukrainian market for thermal coal used in electricity generation represents a drop in the bucket compared to the millions of tons lost to domestic coal plant closures, analysts said.

But, coming against the backdrop of annual production declines, the agreement represents something of a lifeline for northern Appalachian miners, who have witnessed output fall from 54.7 million tons in 2010 to almost 42 million tons last year. Those declines have largely coincided with natural gas's rise in the PJM Interconnection, a regional transmission organization serving 65 million people across the eastern United States.

In 2005, according to PJM, coal accounted for more than 90 percent of the organization's generation capacity. Last year, natural gas and coal each made up roughly a third of PJM's generation mix.

"When you throw in a new consumer, at 700,000 tons, that's a nice uptick, especially in this environment when we have consumers retiring," said Hans Daniels, CEO of Doyle Trading Consultants, a research firm. "This is not the equivalent of a big power plant, but it's a nice little extra."

He predicted that production in northern Appalachia would rise 48 million tons in 2017, helped in part by the Ukrainian deal.

The agreement is an outgrowth of Ukraine's conflict with Russia. American and Ukrainian officials first broached the prospects of a supply arrangement in 2014, when Ukrainian coal shipments were disrupted by fighting in the mining region of Donbass, according to U.S. officials with knowledge of the talks. Ukraine initially elected to fill the lost tons with shipments from South Africa.

But earlier this year, Kiev instituted a blockade on all trade with the country's separatist regions, prompting Ukrainian officials to again raise the issue of coal imports with their American counterparts.

Officials from the Energy and Commerce departments responded by putting Ukrainian officials in direct contact with U.S. coal suppliers, arranging a five-day tour of Pennsylvania's coal mines in June.

"They were very critical in the introduction and helping tie things up through our trips to Kiev to finalize the deal," said Xcoal spokesman Ted O'Brien.

Administration officials trumpeted their involvement, saying it was part of Trump's larger pledge to revive the coal industry.

"This announcement will also boost our own economy by supporting jobs in the coal and transportation industries," Commerce Secretary Wilbur Ross said in a statement. "This Administration looks forward to making available even more of our abundant natural resources to allies and partners like Ukraine in the future to promote their own energy security through diversity of supply and source."

In Pennsylvania, the Ukrainians found a region uniquely suited to meet their needs. Ukraine's power plants burn anthracite coal, an energy-rich variety of the mineral that is less common today. While anthracite mining is now relatively limited in Pennsylvania, the state's mines still produce an energy-packed brand of coal that can be used as a substitute by Ukrainian plants, analysts said.

That helps explain the high price of $113 per ton that Xcoal will receive for its first shipments to Ukraine, they noted. Had the country's power plants been able to burn another variety of coal, they might have bought shipments from Europe, where prices are hovering around $80 a ton, or from other regions of the United States, where exports averaged almost $60 a ton in the first quarter of 2017.

It remains to be seen if the export market can provide a long-term boost for American coal miners. U.S. shipments abroad totaled 42.7 million tons over the first half of 2017, a 50 percent increase compared to the first six months of 2016, according to the U.S. Energy Information Administration. Thermal exports used in power generation, which have doubled over the first

half of the year, accounted for 42 percent of all U.S. coal exports.

Analysts attributed the rebound to an increase in international coal prices, which have made American shippers more competitive in the global market.

Yet the long-term trends remain daunting. American coal companies are better placed to compete in Europe than in Asia thanks to shorter shipping routes. The Netherlands was the largest market for U.S. thermal exports, with 6.1 million tons in 2016, followed by India (2.7 million tons) and Germany (1.8 million tons). Shipments to Ukraine were 32,211 tons.

"The problem is Europe is not a growing market," Daniels said.

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Ukraine Turns to Pennsylvania Coal Imports Amid East Blockade

Bloomberg BNA

By: Kateryna Choursina and Volodymyr Verbyany

Published: August 1, 2017

Ukraine, starved of supplies of a key type of coal from its easternmost regions amid a three-year conflict with Russian-backed separatists, secured shipments of the fuel from the U.S.

State-run utility Centerenergo said July 31 that it will import 700,000 tons of thermal coal, needed to run one of its three power stations, from Pennsylvania-based Xcoal Energy & Resources this year. The first batch of 210,000 tons will be sent in September and cost $113 a ton. Ukraine wants to expand the deal into next year.

"In today's turbulent world, geopolitical turmoil can create uncertainty for nations without access to an abundance of their own natural resources. No one knows this more than Ukraine," U.S. Energy Secretary Rick Perry and U.S. Commerce Secretary Wilbur Ross said in a statement.

The fuel deficit, which arose after President Petro Poroshenko banned trade with Ukraine's two rebel-controlled regions, is getting more urgent in the run-up to winter. While Poroshenko visited Donald Trump in Washington, sealing 2 million tons of additional coal supplies, the U.S. president has criticized Ukraine's dealings with Hillary Clinton during the election campaign. Trump has made reviving America's coal industry a central theme of his presidency.

"It's important to note that this agreement will support the ongoing operations of Pennsylvania-based coal mines, allowing for the expansion of mining activities," Xcoal's chief executive officer, Ernie Thrasher, said July 31.

In addition to agreements over coal, the U.S. has reaffirmed its support for Ukraine in the separatist conflict. U.S. Secretary of State Rex Tillerson visited in early July to reassure Ukrainian officials after Trump held his first face-to-face meeting with Russian leader Vladimir Putin. He also appointed a special representative to Ukraine, while Congress passed stricter sanctions against Russia.

Centrenergo serves Ukraine's capital, Kiev and the surrounding region. The government plans to sell a stake in it next year.

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Scientists ask Pruitt for sit-down on climate debates

E&E News

By: Arianna Skibell

Published: July 31, 2017

Leaders of top science organizations today requested a meeting with U.S. EPA Administrator Scott Pruitt to discuss his proposal for staging debates over human contributions to climate change.

In a letter to Pruitt, 16 scientists said the evaluation and review climate science undergoes are rigorous.

"The peer review process itself is a constant means of scientists putting forth research results, getting challenged, and revising them based on evidence," they wrote.

"Indeed, science is a multi-dimensional, competitive 'red team/blue team' process whereby scientists and scientific teams are constantly challenging one another's findings for robustness."

The letter was signed by former Rep. Rush Holt (D-N.J.) of the American Association for the Advancement of Science, Robert Gropp of the American Institute of Biological Sciences, Christine McEntee of the American Geophysical Union and Ellen Bergfeld of the American Society of Agronomy, among others.

Scientists have been seething since Pruitt suggested the formal initiative to challenge mainstream climate science with a "back-and-forth critique" by government-recruited experts (*Climatewire*, June 30).

The current understanding of climate change, the scientists wrote, is the result of decades of such work from scientists both in the United States and internationally.

"Given your interest in the state of climate science, we would welcome the opportunity to meet with you to better understand your perspective and rationale for the proposed activity; and to discuss climate science, including which areas are at the frontiers of scientific knowledge and which are well-established because of thousands of studies from multiple lines of evidence," they wrote.

How the debate comes together remains to be seen. Pruitt has suggested a televised debate between the two sides. He's reportedly looking to employ a former Obama administration official to lead the effort (*Greenwire*, June 24).

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Skeptical scientists are lukewarm on Trump

Climatewire

By: Robin Bravender

Published: August 1, 2017

Scientists who have been combating the prevailing views about climate change for years might find plenty to be giddy about with the new administration.

President Trump hired vocal climate skeptics to help shape his administration; top government officials are publicly questioning the role humans play in global warming and whether regulations are worth the costs; and the boss of U.S. EPA is eager to crack open the scientific debate that many called settled.

So it wouldn't be surprising if the scientists who diverge from mainstream views and have been marginalized in the debate were feeling vindicated these days.

Michael Mann, a climatologist at Pennsylvania State University who regularly spars with dissenters, said: "They would be happy, wouldn't they?"

They're not.

"There is nothing to celebrate about the Trump administration's approach to energy or climate, unless you are an ideologue on either side," said Roger Pielke Jr., a professor in the Environmental Studies Program at the University of Colorado, Boulder. "In that case, it's happy times for renewed political combat."

Pielke, who has advocated for a carbon tax to limit greenhouse gas emissions but questioned the links between those emissions and extreme weather events, said in testimony to Congress earlier this year that he had experienced an "organized effort of delegitimization" by congressional Democrats and the Obama administration.

But Pielke told E&E News in an email that he isn't any happier with the Trump administration when it comes to climate. "I have had no interactions with anyone related to the Trump Administration (and generally find their policies, climate and otherwise to be awful)," he wrote.

Others feel a sense of uncertainty.

"I'm not feeling good yet," said Judith Curry, a climatologist and former professor at the Georgia Tech.

She and some other prominent scientists who have been publicly critical of the dominant theories of climate science say they see promising signs in the Trump administration's early moves. But some question whether it's something the administration will take on in earnest, and they warn that government officials risk veering from skepticism into outright denialism.

Trump is 'ignoring' warming

They're waiting to see how the administration handles hot-button issues like EPA's endangerment finding and whether officials follow through on assembling a so-called red team aimed at poking holes in the climate science consensus.

"I'm cautiously optimistic," Curry said. "I don't have a problem with what he has said" since becoming president, she added. "He basically says the causes of climate change are uncertain. And he isn't letting climate change drive energy policy."

Pat Michaels, a senior fellow in environmental studies at the Cato Institute, said he's "cautiously hoping" that the administration will adopt a "nuanced point of view on climate."

That would sound something like this: "Climate change is real," Michaels said, but "it doesn't look like it's going to be the end of the world, and there's not much you can do about it anyway." He called that approach a "lukewarm" point of view.

That view is a departure from the Obama administration, Michaels said. "If they do that, they won't be labeled deniers, and there is a growing body of scientific literature and a growing data stream that argues that that is a reasonably credible point of view," he said.

But Michaels hasn't yet been sold on where the new team stands. "I would view the administration's attitude on climate change or global warming, which it more specifically should be called, as kind of ignoring it."

Trump himself rarely talks about climate change, and in the wake of his decision to extract the United States from the Paris climate accord, his aides refused to say where Trump stood in regard to the science. He stated politics, not science, as his primary reason for the withdrawal, calling it a bad deal for the United States.

John Christy, a climate scientist at the University of Alabama in Huntsville who has long argued that the science isn't settled and climate change models show exaggerated warming, said it is "satisfying" to see his work "now being taken seriously by the folks who can do something about the legislative side."

But Christy is also unsure what exactly Trump and his team think about climate data.

"I don't know where President Trump lands regarding where the 'science' is," he said. "It's hard to figure out what's going on" with the administration, Christy added. "I can't get my hands around what direction it's going because the noise level is so high."

Be subtle, Mr. President

Richard Lindzen, an emeritus professor of meteorology at the Massachusetts Institute of Technology and a fellow at Cato, said there's "a feeling that especially with pulling out of Paris that there is more sanity" when it comes to climate science.

"I do think that the present administration has people who understand that this is a scientific issue that is by no means settled. That's a big plus," Lindzen said.

Those wishing for a major shake-up in climate science are watching closely.

Michaels earlier this month published a "climate roadmap" for Trump in which he urged Trump to obliterate the 2009 endangerment finding, the determination that set the stage for federal rules to limit greenhouse gas emissions. Michaels also wants Trump's team to pull out of a 1992 U.N. treaty that enables the country to enter into international emissions agreements.

If EPA doesn't change its official position regarding the science, Michaels said, "all that's being done is just waiting for the next president of the other party to reverse it."

Others in both the science and advocacy realms also want the new administration to torpedo the endangerment finding, but it's unclear whether EPA Administrator Scott Pruitt will take that on. Pruitt and other members of the administration have suggested kicking off a formal debate to test the prevailing climate science.

That review would be welcome for some skeptical scientists, although several cautioned that it

has to be done carefully.

"I'm hopeful that something can shake loose and that we can start to have a rational dialogue on this subject," Curry said. She called for "taking a new look at the science" and "opening up the policy options." But, she added, "promoting policies to senselessly trash the environment isn't going to help either. I'm just not clear where this administration is going yet."

Michaels said the red team approach "has promise, but is also fraught with peril."

He said he hopes that the red team will "be the team of nuance and innovative policy, rather than the 'there's no such thing' [as climate change] team."

Michaels added that under Trump, "I think there is a real opportunity with regard to developing science, and I don't detect any willingness to wade into those waters."

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There's a 5% chance of holding temps at 2 C — study

Climatewire

By: Adam Aton

Published: August 1, 2017

President Trump's decision to yank the United States from the Paris climate agreement spurred a rallying cry from environmentalists committed to meeting the accord's goals anyway.

Too late, say the researchers behind a pair of studies published yesterday in *Nature Climate Change*.

Climate modeling and observational data suggest the world is already on track to reach dangerous levels of warming by the end of the century, according to the two papers.

There's only a 5 percent chance of limiting warming to less than 2 degrees Celsius, according to a forecast drawn from a statistical analysis of 150 countries' population and economic growth.

Two degrees of warming marks the likely threshold for widespread ecological problems, including coral reef collapse, markedly higher sea-level rise and crop failures, according to NASA.

The median forecast suggests 3.2 C of warming by 2100, with a likely range of between 2 and 4.9 C.

Even if all human emissions immediately ceased, the atmosphere probably contains enough carbon to push up temperatures by about 1.3 C by the end of the century, according to the second study.

And that might understate the effect of today's greenhouse gases.

The amount of warming caused by CO2 might have been masked over the years by accompanying aerosol emissions. So as emissions fall — and aerosols wash out of the air — we might find ourselves on track for even more warming than we realized, said Robert Pincus, a scientist with the University of Colorado, Boulder, and NOAA's Physical Sciences Division.

Pincus authored the analysis of committed warming, along with Thorsten Mauritsen of the Max Planck Institute for Meteorology.

The ocean's ability to absorb heat and carbon could reduce the warming already in the pipeline by 0.2 to 0.3 C, they wrote.

The findings are dire, but they should inspire action rather than hopelessness, said Adrian Raftery, a professor of statistics and sociology at the University of Washington and author of the study on temperature forecasts.

"The consequences of not [acting] are even higher with these results than they were before, when we could think about 1.5 degrees as being in the realm of possibility — which I think, realistically, it's not," he said, urging more investments in research, a tax on carbon and other established paths to emissions reductions.

Raftery's forecasts align with the middle-of-the-road scenarios put forward by the Intergovernmental Panel on Climate Change.

His study found population growth will likely play a small role in climate change, because the areas with the highest growth — like Africa — have a small carbon footprint.

Some uncertainty remains around how much Africa's emissions will grow over the coming century, he said, but relative to the United States, it's a question of whether Africa's per capita emissions will be "lower or much, much lower."

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Islamic State and Climate Change Seen as World's Greatest Threats, Poll Says

The New York Times

By: Lisa Friedman

Published: August 1, 2017

Climate change is essentially tied with the Islamic State as the most-feared security threat across much of the world — except in the United States, where cyberattacks are considered a greater danger than global warming, according to a Pew Research Center report released on Tuesday.

Residents of 13 countries ranked climate change as the greatest threat to national security, while in 17 countries the Islamic State was considered a more immediate problem.

In the United States, however, a gaping partisan divide pushed climate change to third-most severe perceived threat, after ISIS and cyberwarfare. Just 56 percent of Americans surveyed identified global warming as the most serious threat to the country, compared to 71 percent for cyberwarfare and 74 percent for Islamic State attacks.

The American intelligence community concluded that Russia used cyberweapons to interfere with the presidential election last year, perhaps accounting for the heightened sense of threat. The Trump administration has consistently played down the dangers of a warming climate and has withdrawn the United States from the Paris accord on climate change signed by nearly 200 nations.

"The stark partisan divide between those on the left and the right means there is a large portion in the United States that doesn't see climate change as a threat," Mr. Poushter said. "But there's a large percentage that does, so that lowers the number."

The survey of 41,953 people in 38 countries was conducted from February through May. Beyond the top line figures, the survey offers other insights about how people around the world view global warming.

Latin America is deeply worried about climate change

While Latin America is certainly vulnerable to the consequences of climate change, its countries rarely rank among the most at risk. That unfortunate distinction tends to go to Chad, Sudan, low-

lying island states and other places where poverty and civil strife meet rising seas, floods and drought. So it's not surprising perhaps to see so many countries in Africa put climate change at the top of their worry list.

But 74 percent of people surveyed in seven South American and Latin America countries cite climate as their top global concern, the highest of any region surveyed.

The Intergovernmental Panel on Climate Change offers some clues, citing "significant trends in precipitation and temperature" across the region. Paula Caballero, global director of the climate change program at the World Resources Institute, a Washington-based think tank, noted the multiple devastating floods this spring in her native Colombia.

"In Latin America the impacts of climate change both in terms of extreme events as well as the intensity and frequency of events has really gained momentum," said Ms. Caballero, who formerly served as Colombia's lead United Nations negotiator on climate change

Even in Venezuela, the only Latin American country surveyed that did not name climate change as its top concern, global warming came in just below worries about the economy. In the midst of its own political and economic crisis this month, Venezuelan leaders ratified the Paris Agreement.

Russians are among the least concerned about warming

The Russian heat wave of 2010 was made three times more likely by climate change, a study later found. But Russians are generally apathetic about rising greenhouse gas emissions, the Pew survey confirmed. The country backed the Paris agreement on climate change but the Russian president, Vladimir V. Putin, did not denounce President Trump for abandoning the accord as so many other world leaders did.

Putin's views on the subject are opaque, though. Before the Paris accords he told world leaders that global warming "was one of the gravest challenges humanity is facing."

Russia ranked climate change fifth among its global concerns in the Pew survey, below the Islamic State, the economy, the refugee crisis and the influence of the United States.

What do the Russians worry about even less than climate change? Cyberattacks.

American opinion on climate change is highly partisan

We have long known Americans break heavily along party lines over the causes, solutions and very existence of man-made climate change. The Pew study lays that chasm bare.

Among Americans who consider themselves left-leaning, 86 percent cite rising emissions as a dangerous threat, compared to only 31 percent on the right. That 55 percent divide is larger than the partisan split on ISIS and on the refugee crisis.

Terrorism is the biggest worry for Americans, with 74 percent putting ISIS as the top threat to the country. Close behind are cyberattacks.

Mr. Poushter noted the surveys were conducted in the spring amid national attention on the finding that Russia meddled in the 2016 presidential election by hacking Democrats' emails and distributing online propaganda.

Climate change is ranked third among Americans with 56 percent of people surveyed believing it is a major threat.

Lower levels of concern about climate change were found in Poland, Russia, India, Israel Jordan, Tunisia, Turkey, Ghana, Nigeria and Venezuela.

Anthony Leiserowitz, director of the Yale Program on Climate Change Communication at Yale

University, said the ideological split in America underscores the divisions he has witnessed in his own studies of how Americans perceive climate change.

"Climate change is in many ways a small skirmish in the midst of a much larger political struggle that's been going on in this country since its founding," he said. "What's the relationship between government and a society of free individuals? That's playing out across the board on a lot of other issues from tax policy to health care."

Coal importers and exporters have divergent views

Pew did not survey many of the top oil exporters other than Russia, so it's hard to know how people feel in Saudi Arabia, United Arab Emirates or Kuwait. But among the world's biggest coal exporters the story is a fairly nuanced one.

Citizens of Indonesia, a top coal exporter in 2014 according to the World Coal Association, listed ISIS as their highest concern. Attacks in Jakarta this spring have set people on edge and the country's military chief has warned that the Islamic State group has so-called sleeper cells all over country. But climate is still seen as the third biggest threat, after the economy. Australia, also a coal exporting giant, cited climate change as the second greatest threat after ISIS.

And among the big coal importers? Only 47 percent of people in India surveyed named climate change as a top concern, but that was enough to put the issue second after ISIS. In South Korea, 79 percent of people are worried about the climate.

Mr. Poushter said Pew did not survey China this year because of a law restricting research by foreign organizations. But a similar survey Pew conducted in 2015 found 19 percent of Chinese people polled considered themselves "very concerned" about climate change. That is low, particularly compared to the 79 percent of Indians who were very concerned about warming at the time. But it also was the highest level of worry Chinese residents assigned to any global threat.

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Here's where climate change could generate toxic air pollution

PBS News Hour

By: Nsikan Akpan

Published: July 31, 2017

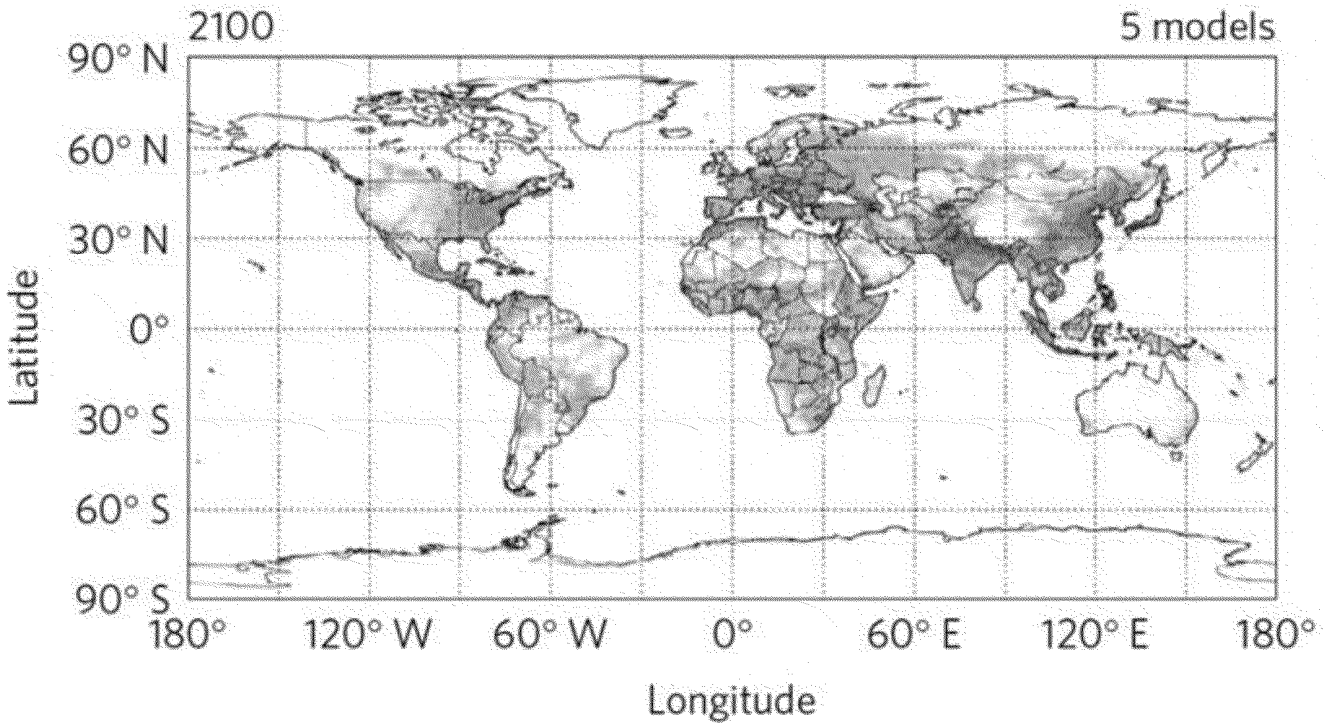
Climate change could choke parts of the planet. Global shifts in temperature and precipitation can create pockets of two air pollutants — ozone and fine particulate matter — around populated areas, according to a study published Monday in Nature Climate Change.

In a business-as-usual scenario, the consequence would be 60,000 extra deaths annually by 2030 and more than 250,000 deaths per year by 2100. The investigation offers a sense of what places could see the greatest benefit by curbing climate change.

What they studied

- The team focused on two air pollutants known to harm human health and increase mortality: ozone created near the ground and fine particulate matter.
- Then, they used an ensemble known as the Atmospheric Chemistry and Climate Model Intercomparison Project (ACCMIP) — which pulls data on temperature, precipitation and other measurements from institutes and government agencies around the world — to predict what business-as-usual trends in climate change would do to the premature death toll in 2030 and 2100.

What they found



Estimates for mortality due to fine particulate matter in 2100. Orange and red shading indicate areas where mortality will increase by thousands or tens of thousands, respectively. Light blue and dark blue show where mortality will decrease by thousands or tens of thousands, respectively. Map by Silva RA et al., Nature Climate Change, 2017

- A climate change-related boost in fine particulate matter would create an additional 55,600 deaths per year by 2030, and 215,000 by 2100 worldwide.
- Ozone, meanwhile, could add 3,340 deaths by 2030 and 43,600 deaths by 2100.

What's driving this pollution?

Ozone is not directly emitted by cars or power plants, but rather forms when human-made pollutants — like oxides of nitrogen (NOx) — react with other chemicals in the air.

"The rates of those reactions are faster with the hotter temperatures and the more sunlight," said J. Jason West, an environmental engineer the University of North Carolina at Chapel Hill who led the study. "So as climate change, we expect ozone to form faster."

Temperature and climate change can also elevate polluting emissions from trees.

Infrequent rainfall becomes problematic for the future because it's one of the important ways by which pollutants are removed. So in places due to get drier, West's team expects more pollution because there's less removal by rainfall.

Temperature and climate change can also elevate polluting emissions from trees. "Trees emit organic compounds that react in the atmosphere to form ozone and particulate matter," West said. "Under climate change, we expect that trees will release many more pollutants."

Why it matters

- Mortality in the U.S. would see annual increase of 8,000 people by 2030 and 19,000 by 2100, primarily on the East Coast due to changes in temperature and rainfall.
- East Asia and India are predicted to see the greatest jump in deaths caused by climate-driven air pollution. Africa is mostly spared by this facet of climate change, because increases in precipitation would drive air pollution downward, West said.
- This mortality burden, studied by West's team, is limited to just air pollution. Spikes in deadly heatwaves could threaten 75 percent of the globe by 2100, while global warming is already reinforcing severe storms. The number of U.S. storms resulting in at least $1 billion in damages has steadily increased since 1980.

What happens next?

West and his colleagues predict these negative impacts on global and regional mortality could be prevented by reducing long-lived greenhouse gas emissions.

Prior work by their team found that up to 700,000 lives could be saved annually by 2030 if humans curb their production of air pollutants, including greenhouse gases.

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Court allows EPA 2-month freeze in Ark. haze suit

Greenwire

By: Sean Reilly

Published: July 31, 2017

A federal appellate court has granted U.S. EPA's request for a two-month hold on litigation surrounding a haze reduction plan for Arkansas, but with a warning that it will not look favorably on future delays.

The 8th U.S. Circuit Court of Appeals issued the two-sentence ruling this morning, a week after EPA — allied with power producers and Arkansas Attorney General Leslie Rutledge (R) — sought the freeze in hopes of letting settlement talks advance (*Greenwire*, July 25). The bid was opposed by the National Parks Conservation Association and the Sierra Club, which unsuccessfully argued to let the package of consolidated lawsuits proceed in tandem with the talks.

In today's ruling, the court agreed to hold the ligation in abeyance until Sept. 26.

The regional haze rule, published last September in the final months of the Obama administration, is intended to cut yearly emissions from coal-fired power plants owned by Entergy Corp. and other Arkansas electricity producers by tens of thousands of tons, with a goal of improving visibility in national wilderness areas and a wildlife refuge in Arkansas and Missouri.

But Rutledge has argued that the required pollution controls could jeopardize the reliability of the state's electric grid, while Entergy contends that its share of the expense could add up to more than $2 billion.

Under the Trump administration, EPA recently proposed giving three power plants covered by the plan an 18-month extension on meeting requirements to reduce emissions of nitrogen oxides. At the agency's request, the 8th Circuit had first frozen legal proceedings in the litigation in March; the Arkansas Department of Environmental Quality is also drafting its own plan as a partial replacement for last year's federal rule.

EPA's broader regional haze program, dating back to 1999 in its current form, has a goal of restoring natural views to 156 national parks and wilderness areas by 2064.

Under current EPA chief Scott Pruitt, a critic of the Obama administration's approach, the agency has also won a court-approved stay on lawsuits over a Wyoming regional haze plan to allow a partial settlement to take effect (*Greenwire*, June 20). This month, EPA officials also sought to freeze legal proceedings over yet another plan affecting two PacifiCorp power plants in Utah, to give them time to administratively reconsider the plan's requirements (*Greenwire*, July 19).

That motion is pending before the 10th U.S. Circuit Court of Appeals. PacifiCorp and most other parties in the litigation filed their responses to the motion last week; the reply from a coalition of public health and environmental groups is due by this Friday.

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The Energy 202: How Pruitt's hustle to deregulate the EPA may bite him

The Washington Post

By: Dino Grandoni

Published: August 1, 2017

In his aggressive pursuit of rolling back Obama administration regulations, President Trump's top environmental official may be bumping up against his legal limits.

Late Monday, the U.S. District Court for the District of Columbia ordered the Environmental Protection Agency to enforce an Obama administration rule limiting the amount of methane, a powerful greenhouse gas, that can be emitted from new or modified oil and gas wells.

The 9-to-2 decision comes after an earlier ruling in July striking down as illegal a 90-day delay in the implementation of the decision compelling oil and gas well operators to plug methane leaks. Industry groups argued that the federal rules were unnecessary as they duplicated state efforts to rein in emissions.

Where much of the rest of the Trump agenda on health care or a tax rewrite flounders, EPA Administrator Scott Pruitt is plugging away at repealing Obama-era regulations and helping bolster the president's claim that he is keeping his campaign promise to deregulate the fossil-fuel sector. With both chambers of Congress led by the GOP, environmentalists opposed to that agenda have turned to the courts to block Trump's policy.

The methane rulings may just be the start of the legal pendulum swinging back to their side. Most of the headlines the EPA has generated during Trump's six months in office boil down to this: The EPA will begin the lengthy review process of undoing such-and-such rule.

For example, in February, **Trump surrounded himself with cameras and lawmakers to sign an executive order** targeting a clean-water rule that greatly expanded the number of waterways that fall under federal protection.

Though Pruitt has publicly indicated to Congress that the EPA would "provide clarity" by "withdrawing" the clean-water rule, the agency only took its first step in a dual-prong process by officially rescinding the decision last week. And even so, the EPA must take the time to address the thorny legal question the Obama rule sought to address. Those include what waterways fall under the jurisdiction of the ambiguously worded Clean Water Act. Litigants have tried and failed to sort out that question in the courts for years.

Here's the problem: Pruitt's hustle may be just now coming back to bite him in his quest to cut down on red tape he thinks is hurting the energy sector -- thereby making it harder for him to implement the Trump environmental agenda. The Administrative Procedure Act requires the EPA to seek public comment and state its justification before suspending a rule as it is being considered for repeal. And there are court challenges that could get in the way if the administration isn't careful.

Bethany A. Davis Noll, an attorney at the Institute for Policy Integrity, and Richard L. Revesz, a New York University law professor, argue that the EPA is cutting corners in striking down Obama administration rules.

The lawyers argue that Pruitt has suspended rules without taking actions required beforehand.

"Pruitt's willingness to play fast and loose has helped his anti-regulatory reputation soar," the two lawyers write in Slate. "But the brazen deficiencies in the agency's work exposing the hollowness of Pruitt's 'rule of law' rhetoric should give Pruitt's supporters pause. Once the judicial challenges run their course, Pruitt may be striking out a lot more."

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Pruitt's Deregulation Spree Has Cut Corners

Slate

By: Bethany A. Davis Noll and Richard L. Revesz

Published: July 31, 2017

Say what you want about this administration's competence, but there's one area where they are succeeding for now: Scott Pruitt has been the Environmental Protection Agency's administrator for a short five months and already he has speedily and forcefully upended an unprecedented number of environmental rules, earning a reputation as one of the few Cabinet members to

effectively move Trump's deregulatory agenda forward. Pruitt claims that these regulatory rollbacks represent a return to the "rule of law," but he has pursued them in a lawless fashion, cutting corners and ignoring fundamental legal requirements. Now, failing to follow the rules of the game is catching up with him—his EPA recently suffered its first courtroom defeat, kicking off what is likely to be a long losing streak and creating regulatory uncertainty along the way.

On July 3, the U.S. Court of Appeals for the District of Columbia Circuit—the court that will hear many of the challenges to the EPA's onslaught of rollbacks—nixed Pruitt's attempt to delay a rule limiting methane leaks at oil and gas facilities. The rule would require companies to plug methane leaks, which would help recover valuable natural gas as well as help clean up the air. But at the request of industry, Pruitt decided to suspend the rule's compliance deadlines. To justify the delay, he relied on a section of the Clean Air Act that allows the EPA to temporarily suspend a rule while considering objections that could not have been raised prior to the rule's issuance. Pruitt claimed that this standard was met, but the court found his claim to be obviously false: Not only could the objections have been raised earlier, but they *were* in fact raised by industry before the rule was finalized. Strike one for Pruitt.

Federal agencies are not authorized to suspend rules first and figure out their reasons later.

Pruitt's other repeal efforts are full of similarly questionable moves. Some of these actions have already been challenged in court; other suits are likely to follow. For example, the Administrative Procedure Act requires EPA to seek and respond to public input before taking major deregulatory steps. But Pruitt has been attempting to bypass that requirement by suspending rules indefinitely without public comment.

Both the Clean Air Act and the Administrative Procedure Act allow Pruitt to suspend rules only before they become operative. Once a rule goes into effect, compliance deadlines cannot be suspended without a public revision process. (This system provides needed certainty and predictability to the industries these rules affect, since facilities may need time to prepare for compliance and also want to know that the rules will not suddenly shift underfoot while they prepare.) Pruitt has paid no attention to these issues and has suspended compliance deadlines for several rules—including the toxic water pollution rule and a rule limiting methane emissions from landfills—long after those rules were effective.

Under the Administrative Procedure Act, the EPA also must give good reasons for suspending or repealing a regulation at the time that decision is finalized. But Pruitt recently blew off this

requirement when he indefinitely suspended the compliance deadlines in a regulation seeking to improve safety at facilities that deal in dangerous and explosive chemicals. He provided no reasons for the change beyond the fact that the EPA was considering repealing the rule at some unspecified point in the future. But federal agencies are not authorized to suspend rules first and figure out their reasons later. They are supposed to give their reasons so that the public can comment on them *before* a deregulatory move.

The EPA must weigh the costs and benefits of any decision to cancel public health or environmental protections. Instead, Pruitt has been using a variety of excuses to ignore the lost health and environmental benefits that result from his rollbacks. For example, in a recent proposal to suspend a Clean Air Act rule, the EPA stated that information about the forgone benefits of the rule is "currently unavailable"—despite the fact that the details of the original rule's benefits were published just last year and remain available to all. In a proposal to repeal a major Clean Water Act rule, the EPA claimed that a large category of benefits can no longer be quantified because the data that the agency originally relied on was published before 2000. But data that was just as old was fine when it came to calculating the cost savings of the proposed repeal. And in suspending the compliance deadlines in the rule updating safety measures at chemical facilities, the EPA absurdly claimed that the benefits of the rule will "not be impacted" despite the indefinite delay of safety improvements that will help reduce danger to police and firefighters responding to chemical disasters.

Pruitt's willingness to play fast and loose has helped his anti-regulatory reputation soar. But the brazen deficiencies in the agency's work exposing the hollowness of Pruitt's "rule of law" rhetoric should give Pruitt's supporters pause. Once the judicial challenges run their course, Pruitt may be striking out a lot more.

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States ask court to toss Congressional Review Act lawsuit

E&E News

By: Arianna Skibell

Published: July 31, 2017

Sixteen states are urging a federal court to dismiss an environmental group lawsuit against the Congressional Review Act, which gives lawmakers tools for undoing administration actions.

The lawsuit, filed by the Center for Biological Diversity in U.S. District Court for the District of Alaska, argues that a CRA provision violates the Constitution's separation of powers doctrine by preventing agencies from issuing a "substantially similar" rule to the one overturned.

At issue in the lawsuit is a 2016 Fish and Wildlife Service rule that gave the federal government tighter control over managing predatory animal populations on the 76 million acres of national wildlife refuges (*E&E News PM*, April 20). Congress scrapped it during the beginning of the Trump administration.

The states, in a friend-of-the-court brief filed earlier this month and accepted Friday, said it was CBD's lawsuit, not the CRA, that threatened separation of powers.

"The lawsuit attacks the separation of powers because it asks the federal courts to override a law ... that was passed by the House and the Senate, and signed by the President, on the theory that Congress must use different (and more cumbersome) operating procedures to enact that law," said the brief.

Texas Attorney General Ken Paxton (R) recently joined the coalition, saying the CRA provides Congress an efficient procedure to stop federal overreach and block "onerous regulations."

"There is something unconstitutional in this area: federal agencies wresting power to write laws away from Congress," he said in a statement. "The CRA restores the Constitution's separation of powers. If the CRA is unconstitutional, then the Constitution is unconstitutional."

Wisconsin Attorney General Brad Schimel and Georgia Attorney General Chris Carr, both Republicans, led the amicus brief. They were joined by Paxton along with the attorneys general from Alabama, Arizona, Arkansas, Indiana, Kansas, Louisiana, Missouri, Nebraska, Nevada, Oklahoma, South Carolina and Utah.

Last month, Alaska joined the conservative Pacific Legal Foundation in filing a motion to intervene and dismiss the complaint, arguing in part that CBD's case was premature because it deals with future action that may not occur (*Greenwire*, June 1).

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Dingell proposes legislation to prevent closure of EPA offices

Michigan Live

By: Ryan Stanton

Published: August 1, 2017

ANN ARBOR, MI - U.S. Rep. Debbie Dingell is proposing legislation to ensure U.S. Environmental Protection Agency offices stay open, including those in Ann Arbor and Grosse Ile.

Dingell, D-Dearborn, is co-sponsoring what's being called the REGION Act to prevent the closure of any EPA regional or program offices.

The acronym stands for Recognizing the Environmental Gains in Overcoming Negligence.

Dingell argues President Donald Trump's budget proposal from earlier this year would gut the EPA and shutter several offices, including the National Vehicle and Fuel Emissions Laboratory in Ann Arbor, which employs 435 people, and the Large Lakes Research Station office in Grosse Ile, which houses more than a dozen Emergency Response Division employees tasked with responding to and cleaning up environmental hazards or accidents.

"Hardworking EPA employees in Ann Arbor and Grosse Ile play a vital role in protecting our communities - whether it's reducing vehicle emissions and keeping the U.S. at the forefront of

innovation or cleaning up toxic spills that threaten the health of our families and environment," Dingell said in a statement.

"We cannot afford to lose these jobs or halt the critical work taking place in these areas. This legislation will ensure that this important work continues in Michigan and at EPA offices across the country, where dedicated scientists, engineers and public servants are working every day to protect the air we breathe and the water we drink now and for the future. This must remain a top priority."

The legislation also would prevent the closure of the EPA Region 5 office in Chicago, which serves Michigan, Illinois, Wisconsin, Indiana, Minnesota and Ohio. Dingell said the office is critical to protecting the air, water and health of residents in Great Lakes states.

The legislation is being co-sponsored by U.S. Reps. Marcy Kaptur of Ohio, Betty McCollum on Minnesota, Mike Quigley and Bobby Rush of Illinois, Louise Slaughter of New York, as a companion to legislation Sen. Tammy Duckworth of Illinois introduced in the Senate.

Dingell visited the Ann Arbor EPA lab in May to speak out against Trump's proposed cuts to the EPA. Dingell said the lab on Plymouth Road conducts critical research, testing, analysis and technological studies in support of the establishment and monitoring of fuel-economy and vehicle-emission standards.

Trump's budget plan from earlier this year proposed cutting the EPA's overall funding by 31 percent, a reduction of $2.6 billion.

The president's stated priority is to "ease the burden of unnecessary federal regulations that impose significant costs for workers and consumers without justifiable environmental benefits."

"This would result in approximately 3,200 fewer positions at the agency," the May budget proposal stated. "EPA would primarily support states and tribes in their important role protecting air, land, and water in the 21st century."

The House Appropriations Committee approved a spending bill this month that would cut EPA funding by $528 million or 6.5 percent. The cuts are far less severe than what Trump proposed.

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EPA won't be able to do the 'right thing' under Trump, says latest protesting official

The Washington Post

By: Joe Davidson

Published: August 1, 2017

Elizabeth "Betsy" Southerland loved her work at the Environmental Protection Agency.

Then Donald Trump and Scott Pruitt came along.

Now Southerland, who was director of science and technology in the agency's Office of Water, said she is "heartbroken about the impact of the new administration on environmental protection in this country."

After 30 years at EPA, her last day was Monday.

Southerland becomes the latest in a series of protesting federal scientists. She denounced the destructive environmental policies of President Trump and EPA Administrator Pruitt. Family concerns played an important role in her decision to leave, but she also can't stomach the current direction of an agency that answers to a White House wallowing in disarray and disgrace.

In a statement planned for release Tuesday by Public Employees for Environmental

Responsibility (PEER) and during email and phone interviews with The Washington Post, she talked about how "EPA has been the guiding light to make the 'right thing' happen for the greater good, including public health and safety."

But with Trump and Pruitt in charge, "that will not be possible under the current administration."

Their attack on environmental protections marks the "abandonment of the polluter pays principle that underlies all environmental statutes and regulations," she said. "The best case for our children and grandchildren is that they will pay the polluters bills through increased state taxes, new user fees, and higher water and sewer bills. The worst case is that they will have to live with increased public health and safety risks and a degraded environment." Furthermore, she warned that Trump's planned 31 percent EPA budget cut would lead to the loss of thousands of public- and private-sector jobs.

"There is no question," she said, "the administration is seriously weakening EPA's mission by vigorously pursuing an industry deregulation approach and defunding implementation of environmental programs."

Southerland went public with her opposition to Trump's environmental program, because she said "I felt it was my civic duty to explain the impact of this administration's policies on public health and safety."

A PhD in environmental science and engineering, Southerland called her more than four decades of environmental work, including three with EPA, "the most wonderful 40 years." Two years ago she was honored with the Distinguished Presidential Rank Award, given to just 1 percent of Senior Executive Service members for "sustained extraordinary accomplishment." In Southerland's case, she was recognized for her work in lowering swimming health risks by developing new national bacteria water quality standards.

Raised in Alexandria and residing in Fairfax Station, Southerland, 68, is married, has two sons and enjoys hiking. She will volunteer with the Environmental Protection Network, a group of former EPA staffers.

Southerland's resignation comes during the same month a Union of Concerned Scientists report said Trump is creating a "hostile environment for scientific staff."

That report was released the day after Interior Department scientist Joel Clement wrote a Washington Post opinion article saying Trump's crowd retaliated against him "for speaking out publicly about the dangers that climate change poses to Alaska Native communities."

In March, Mike Cox also cited the dangers Alaska Natives face from climate change when he quit EPA. In a letter to Pruitt, Cox said administration policies "are contrary" to those Americans want "to ensure the air their children breath is safe; the land they live, play, and hunt on to be free of toxic chemicals; and the water they drink, the lakes they swim in, and the rivers they fish in to be clean."

Reacting to Southerland's remarks, EPA spokesman Jahan Wilcox said that "it's hard to believe that Elizabeth Southerland is retiring because of a budget proposal and not because she's eligible for her government pension. We wish Elizabeth Southerland the best in her retirement and the EPA will continue to re-focus on our core mission of protecting our air, land and water."

Kyla Bennett, PEER's New England director, placed Southerland's departure in a broader context: "Increasingly principled professionals, who have proudly served administrations from both parties, are under orders to betray, rather than serve, the public interest by remaining at EPA."

But don't get the impression these examples of dissent are proof of revolt among federal employees. That is not the case.

"Everyone is focused on presenting all the facts to the new political team in hopes the facts will change their minds about defunding existing environmental programs and repealing existing rules," Southerland said by email. "I do not know even one EPA employee who is doing anything to sabotage the existing political team. They are all doing their absolute best to give the politicals all the facts so they can make the right decision if they are open-minded. I personally do not know anyone who is planning to resign in protest, but I can confirm that staff involved in the [regulatory] repeal efforts already underway are heartbroken."

She closed her written farewell to colleagues with a message that mixed rebuttals to Trump and Pruitt with the hope others in government will save us from them.

EPA suffers "from the temporary triumph of myth over truth. The truth is there is NO war on coal, there is NO economic crisis caused by environmental protection, and climate change IS caused by man's activities," she wrote using capital letters for emphasis.

"It may take a few years and even an environmental disaster, but I am confident that Congress and the courts will eventually restore all the environmental protections repealed by this administration because the majority of the American people recognize that this protection of public health and safety is right and it is just."

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Foes in bitter Ala. GOP primary agree they hate EPA

E&E Daily

By: Nick Bowlin

Published: August 1, 2017

Energy and environmental issues have barely informed the dramatic Alabama Republican Senate special election primary thus far.

There's a reason for that, according to Stefanie Francisco, communications director for Conservation Alabama: Voters already know where the GOP candidates stand.

The front-runners in the race align on issues like offshore drilling, mining and environmental regulation rollbacks, according to Francisco, who works for the state branch of the League of Conservation Voters.

"It's definitely not a central issue," she said.

Personal attacks and clashes over conservative credentials have defined the race so far, with vicious volleys flying between the campaigns of appointed Sen. Luther Strange and Rep. Mo Brooks.

Strange blasts Brooks for criticizing President Trump in 2016. Brooks fires back touting his conservative voting record and noting the circumstances of Strange's appointment to the Senate.

Strange was chosen by former Gov. Robert Bentley (R), who resigned under a cloud of scandal last spring. He appointed Strange, then the state attorney general, which brought accusations of a backroom deal.

The seat was vacated when the state's longtime junior senator, Jeff Sessions, became Trump's attorney general.

So far, neither Strange nor Brooks has attacked Roy Moore, the former state Supreme Court justice and conservative icon who is also in the Senate race.

The first public polling shows Moore and Strange neck and neck. Thirty-five percent of respondents backed Strange, with Moore just behind at 33 percent. Brooks trailed with 16 percent. The survey had a 2-point margin of error and was conducted by Strategy Research for the Raycom News Network. It sampled 3,000 registered voters on July 24.

Brooks, Moore and Strange are the easy favorites in the primary field of nine. Hard-line conservatives with broad state name recognition, the three will compete for the top two spots in

the Aug. 15 contest. None is expected to gather the majority of the vote needed to win outright. The top two vote-getters would advance to a Republican runoff on Sept. 26.

EPA 'bogeyman'

Whoever takes the nomination will bring a strong anti-regulatory stance to the Dec. 12 general election.

Brooks, Moore and Strange are avowed critics of federal agencies, claiming they stymie economic growth and intrude on states' rights. Each frames U.S. EPA as emblematic of the problem.

On his campaign page, Moore states, "We need to foster development of our own natural resources involving nuclear, solar, wind and fossil fuels. Coal mining and oil drilling should be encouraged, subject only to reasonable regulations."

Brooks has a long anti-regulation record in Congress. He has been a vocal supporter of the Trump administration's regulatory rollback efforts and voted to kill Obama-era rules using the Congressional Review Act. A longtime backer of space exploration funding — NASA has a major facility in Huntsville, Ala. — he opposes space agency spending tied to climate research.

"The EPA's job-killing agenda undermines America's economy while driving up the cost of living for struggling American families," he said in a June 2016 House Science, Space and Technology Committee hearing.

"The EPA is a bogeyman in the race as usual," Francisco said.

That's particularly true for Strange. Of the three, the former attorney general has the longest history with energy and environmental issues, and he often touts his legal challenges to EPA and the Clean Power Plan as attorney general while campaigning.

"Luther fought the Obama administration's overreach all the way to the Supreme Court, defending Alabamians from big government intrusions by career politicians and bureaucrats," reads his campaign website.

Strange was one of 27 state attorneys general to sue the Obama administration over the landmark climate measure. In December 2016, he joined 23 other attorneys general in a letter to the Trump transition team describing how to dismantle the CPP using executive orders, rulemaking and legislation.

Strange also headlined a lawsuit by more than a dozen states against an Obama-era expansion of Endangered Species Act protections and joined Texas Attorney General Ken Paxton (R) on behalf of Exxon Mobil Corp. in 2016, challenging a subpoena that directed the company to disclose what and when the company knew about climate change.

"He's shown a willingness to challenge any move by the federal government at environmental enforcement at the state level, often from a states' rights perspective" said Nelson Brooke of Black Warrior Riverkeeper, an Alabama environmental group.

Strange embarked on many of these lawsuits with U.S. EPA chief Scott Pruitt, then Oklahoma's attorney general. The two are longtime allies. They co-wrote an op-ed in the *National Review* that called the climate change debate "far from settled," a phrase Democrats used to attack Pruitt during his confirmation hearing.

Both chaired the Republican Attorneys General Association, a group with deep ties to fossil fuel interests, particularly the petrochemical billionaires Charles and David Koch. The Koch political action committee donated to Strange's Senate campaign this spring, according to Federal Election Commission filings.

Nearly every energy dollar donated to the race has gone to Strange. Employee political action committees from industry heavyweights like Exxon Mobil Corp., Chevron Corp., Tesoro Corp., Halliburton Co., ConocoPhillips Co., Anadarko Petroleum Corp. and others have donated money

to the campaign. Neither Brooks nor Moore has received any money from a major national oil and gas company, according to FEC filings.

Old King Coal

Strange also boasts backing by state-level energy interests. In Alabama, that means coal.

The mining industry has deep Alabama roots. Birmingham, the largest city, was once the industrial hub of the southern United States, with vast deposits of iron ore, coal and limestone.

While coal is on the wane as market forces boost natural gas and renewables, coal-production companies like Drummond Co. Inc. and utilities like Alabama Power — a branch of the Southern Co. — and the Tennessee Valley Authority retain political heft in Alabama.

As attorney general, Strange was known as a coal supporter, and industry interests have been generous in the Senate primary. Alabama Power's employee PAC gave Strange $10,000 this spring, according to FEC documents. Drummond's equivalent contributed $5,000 to the campaign committee in December, while he was still attorney general. Drummond Coal Sales President George Wilbanks provided the maximum individual donation of $2,700.

Alabama Power has given $5,000 to Brooks over the course of the campaign. Moore has not received energy PAC donations so far. Their campaigns did not respond for comment on coal policy.

Like his predecessor Sessions, Strange supports Pruitt's efforts to slash EPA regulations, ease regulations on utilities and work with state agencies. Strange said he backs a May rule revision that made coal ash dumping standards more flexible (*E&E Daily*, May 2).

"I look forward to working with EPA Administrator Pruitt on extending the Coal Combustion Residuals Rule compliance deadlines and continuing our efforts to jump-start America's energy

economy," he said.

Alabama Power says it will cap about a dozen toxic ash ponds. The utility gets about half of its power from coal and called it a "significant part of our diverse supply of energy sources," according to *The Birmingham News* in May 2016.

Strange's coal connections have hurt him in recent weeks. A state representative recently told federal investigators that Drummond officials offered him a bribe in 2014 in exchange for fighting the EPA designation of a Superfund site near Birmingham, according to an article in the *Alabama Political Reporter*.

State Rep. John Rogers (D) said Strange was in the room when the bribe was offered. The article noted that Drummond gave Strange $75,000 in campaign contributions over 2014-15.

Drummond was later named partially responsible for the pollution.

Strange's campaign called the article "fake news."

But yesterday, the Project on Government Oversight released a report linking Strange and Sessions to the scandal. The watchdog group demanded that Strange recuse himself from voting on Trump's nomination of Jay Town to be U.S. attorney for the Northern District of Alabama because that office is running the bribery investigation.

Strange's record

Alabama environmentalists panned Strange's appointment in February, citing his industry ties and tenure as attorney general.

"Our fear is that he's going to continue his track record, which is to not place clean water protections as a high priority," said Mitch Reid, then the program director at the Alabama Rivers Alliance, a water resource nonprofit.

But advocates split over Strange's efforts prosecuting BP PLC after the Deepwater Horizon explosion and oil spill.

Strange was attorney general in 2010 when more than 215 million gallons of crude oil poured from the breach at BP's Macondo well in the Gulf of Mexico, devastating coastlines, including Alabama's. The area has not recovered.

In the subsequent case against BP, Strange served as coordinating counsel for the plaintiff states. In total, BP will pay more than $60 billion in damages, fines and cleanup costs. The state of Alabama will receive several billion dollars from a variety of settlement avenues.

"He did a good job for the state," Francisco said. "He represented the state well and helped get the coastal recovery money."

Not all agree. Others say Strange made no attempt to direct funds from the main settlement, a $1 billion payment to Alabama from BP, to coastal restoration and environmental causes. The majority of the dollars went to state debt payments, highway projects and Medicaid, the critics say.

And while Strange may have prosecuted BP as Alabama's top cop, his overall enforcement record was poor, according to Keith Johnston, managing attorney for the Southern Environmental Law Center.

"In my view, during Strange's tenure as AG, there was never a focus on environmental protection in the state," he said.

As several advocates noted, litigating against BP does not stop Strange from supporting offshore drilling.

Strange backs Interior Department chief Ryan Zinke's plan to lease 73 million marine acres off five Southern states: Florida, Alabama, Texas, Louisiana and Mississippi. The lease process would start in August.

"I share the Trump administration's goal of strengthening the United States' position as an energy superpower by pursuing a new five-year program on lease sales, enhancing opportunities for exploration, leasing and development of new energy sources," Strange said in a statement to E&E News.

The Brooks and Moore campaigns did not respond to questions on energy policy. Brooks has voted to expand offshore oil exploration in the past, and Moore is a staunch fossil fuel advocate. Both reject established climate change science.

"It's taken for granted that that's what we do in Alabama: We drill offshore," Francisco said. "That's not going away anytime soon. I don't think that's even up for debate."

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Trump Wants the EPA Radon Program Cut. So Do Some Scientists

Wired

By: Nick Stockton

Published: July 31, 2017

Woe be to the Environmental Protection Agency. If President Trump gets his way, the federal agency will lose 31 percent of its annual budget—about $3 billion. Supporters of Trump's 2018

budget proposal call it a "back to basics" approach, carving away what they see as the agency's regulatory overreach. Opponents are similarly pithy: The EPA's former director labeled Trump's proposal a "scorched Earth budget."

Disagreements over the utility of the EPA's programs typically fall along the partisan lines you might expect. But not all of them.

At least one of Trump's proposed budget cuts targets a program that some scientists have been questioning for decades: residential radon risk. That program, which sets the standards for risk and protection from radon gas, would be completely zeroed out. Now, according to the EPA, the WHO, and many other big public health organizations, radon is second only to cigarette smoking as a leading cause for lung cancer. The EPA says radon gas causes 21,000 deaths *every year*. Yet some critics in the health care profession say that's all baloney.

Trump's budget hasn't passed. It still has to survive the congressional gauntlets, full of many senators and representatives who have already voiced opposition to many of the EPA cuts, including to the radon program. But some scientists might actually *want* the EPA to back off on this one.

The issue here isn't whether radon causes cancer. It does, certainly. But scientists can only prove that radon is carcinogenic at high doses. Like, rates typically found in mine shafts, not suburban homes. Critics say the EPA's method for establishing low-dose radon risk assessments is simply unscientific. Some even go so far as to say low doses of radiation might *help* your body fight cancer. Follow that logic through, and they say the EPA's low dose radon risk assessment could actually be harming people.

It's Coming from Inside the House

Radon is radioactive gas emitted when uranium decays. And because most rocks contain traces of uranium, it leaks from the soil virtually everywhere on Earth. Like uranium, radon decays, too. If it does this in your lungs, the alpha particles it releases can harm the DNA in your cells. "When we talk about radon risk, we really mean the risk from radon and its decay products," says Phillip Price, a physicist at Lawrence Berkeley National Laboratory. If enough DNA gets damaged, the mutations pile up and … lung cancer.

Radon is everywhere, but it doesn't usually pose much of a risk because it disperses into the open air. "What's unnatural are the radon levels that accumulate indoors," says James McLaughlin, president of the European Radon Association.

Scientists began to recognize the threat in the 1970s, when epidemiologists found that miners were getting lung cancer at higher-than-average rates. The tunnels they worked in were *full* of radon gas. But the agency's real work started after 1984, when an engineer at the Limerick Nuclear Power Plant in Pennsylvania set off radiation alarms as he was coming *in* to work. After some sleuthing, public health experts figured out that his house was filled with radon. Like, uranium mine levels of radon. This set off a national panic—homeowners feared their home might have similarly high levels.

By 1986, the EPA established an indoor radon risk exposure level—4 picocuries per liter of air. It's similar to that recommended by the World Health Organization and the European Union. That number isn't tied to any regulations: Instead, the EPA recommends that people test their homes (which can cost between $20 and $200) and take action if necessary—say, by installing fans and vents to improve airflow. Hiring a contractor to ventilate your basement can run into the thousands.

Radon? Maybe Radon't

That number, 4 picocuries, is a funny one. Because here's the thing: The scientific model used to come up with that limit says there's *no* acceptable level of radon exposure. None.

It's called the linear no-threshold model, and it's used to estimate risk for low doses of carcinogenic materials. See, it's not hugely controversial to link lung cancer to high radon levels, like those found in a mineshaft. But it's impossible to directly establish a link between low levels of radon and cancer. There are just too many other possible carcinogens, like air pollution, second hand smoke, and even random DNA mutations.

So, the linear no-threshold model takes the cancer rates in highly-exposed populations—those

uranium miners—and extends them to lower doses of radiation. It then multiplies that very small risk across a huge number of people in order to estimate the total number of future cancers. That's how the EPA estimated that radon causes 21,000 annual lung cancer deaths.

Radiation risk professionals use the linear no-threshold model to determine the exposure risk from all sorts of other radioactive and carcinogenic material. "The idea is that twice as much radiation means twice as many cells with damaged DNA, and if each cell with damaged DNA has a certain chance of initiating a cancer, then *ceteris paribus* you have the linear no-threshold model," says Price. "That's not crazy."

But if there's no threshold below which radon doesn't increase cancer risk, how did the EPA settle on 4 picocuries per liter of indoor air as its recommended exposure limit? For one thing, radon becomes both more difficult to detect and remove at lower doses. That translates into dollars. When the EPA established the 4 picocurie action level in 1986, it estimated each saved life cost around $700,000. Lower that to 3 picocuries, and the cost per life more than doubles, to $1.7 million. At 2 picocuries, $2.4 million.

Low Limit Soldiers

Critics contend that money probably isn't saving anyone. "I personally think the linear no-threshold model is over conservative, and does waste a lot of money that could be better spent," says Cynthia McCollough, a radiologist. "Using the linear no-threshold model to *predict* future cancers is very bad science, and all radiation protection agencies agree on that." In fact, the Health Physics Society (a large scientific organization for radiation safety specialists) has officially stated that radon produces no statistically measurable health effects until levels reach about 27 billion picocuries. Even the EPA itself, in its 2003 assessment of household radon risk, seemed to agree: "The [committee tasked with establishing radon risk] adopted the linear no-threshold assumption based on our current understanding of the mechanisms of radon-induced lung cancer, but *recognized that this understanding is incomplete and that therefore the evidence for this assumption is not conclusive*." (Emphasis added.)

Despite that admission, the EPA went ahead with the linear no-threshold model for radon out of an abundance of caution. But some critics say the agency's overprotective action might actually be harming people. "The linear no-threshold model is based on the concept that increased radiation and increased mutations cause cancer. That assumption is fundamentally wrong," says Mohan Doss, a physician at the Fox Chase Cancer Center in Philadelphia. That's because, Doss

says, it ignores biology.

Humans develop DNA mutations all the time. Most of them do not turn into cancer. One theory why, says Doss, is that the immune system moves in and gets rid of those afflicted cells early on. He goes so far as to say that low-dose radiation might *prevent* lung cancer. Doss points to animal studies showing that low doses of radiation might help the body fight cancer by activating the immune system to clear away mutated DNA. "These boosted defenses actually reduce the DNA damage that would have occurred in absence of radon exposure," he says. If he's right, that means the EPA's guidance levels aren't preventing cancer—they're causing it.

So, why doesn't the EPA listen to these low limit soldiers? Probably because organizations like it tend to be pretty risk-averse. Under the precautionary principle, it's better to overprotect than under-protect. And the total indoor radon program in the EPA's 2017 budget called for just $3.5 million. Also, remember how hard it is to establish radiation risk at low levels? That sword cuts both ways. "There's some shaky empirical evidence for a weak protective effect at 2 picocuries per liter compared to 0," says Price. But whether you're looking at health benefits or risks, *all* the evidence is pretty shaky below an exposure of about 8 picocuries.

Finally, consider inertia. The linear no-threshold model underpins not just the EPA's radon recommendation, but its risk exposure estimates for other radiation sources.

Most of the experts I spoke with didn't have a good idea about what effect, if any, Trump's promise to nix the EPA's radon program might have. McCollough said the real hit happened under Obama's watch, when the Department of Energy's Office of Science killed a program studying the biological effects of low dose radiation.

At least one, though, is rooting for the program's demise. "If the Trump administration nixes the EPA radon program, there would be little adverse impact on public health," says Doss. "But in fact there would be improvement of public health, by reducing lung cancers." Talk about scorched Earth.

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Chicago Cubs Give Steve Bartman a

World Series Ring

The New York Times

By: Victor Mather

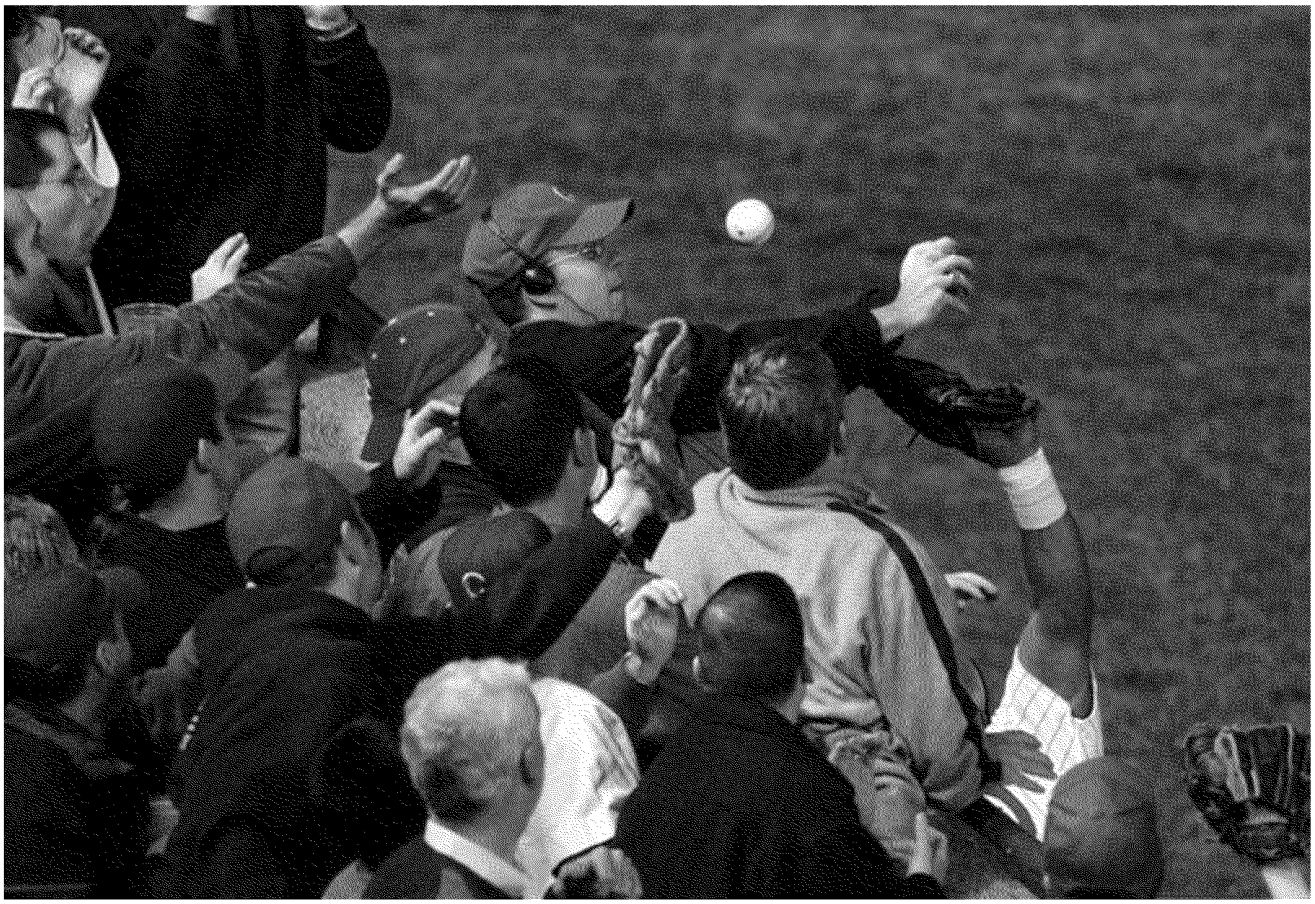
Published: July 31, 2017

Steve Bartman innocently reached up for a foul ball in 2003. He soon was the most reviled sports fan in America, with many people saying his act had cost the Chicago Cubs a chance at a long-elusive championship.

In 2016, the Cubs finally did win the title, after a 108-year wait. And now, eight months after that historic achievement, Bartman has received a World Series ring, said WGN-TV.

"We hope this provides closure on an unfortunate chapter of the story that has perpetuated throughout our quest to win a long-awaited World Series," the team said in a statement provided to WGN. "While no gesture can fully lift the public burden he has endured for more than a decade, we felt it was important Steve knows he has been and continues to be fully embraced by this organization."

In his own statement, Bartman said, "Although I do not consider myself worthy of such an honor, I am deeply moved and sincerely grateful."



Steve Bartman reached for a foul ball in 2003 and wound up with years of heartache after interfering with the Cubs' Moises Alou. Credit Morry Gash/Associated Press

"My hope is that we all can learn from my experience to view sports as entertainment and prevent harsh scapegoating," he added.

Bartman, a financial consultant, was seated in the front row at Wrigley Field for Game 6 of the 2003 National League Championship Series.

The Cubs were ahead, 3-0, in the eighth inning at Wrigley Field, needing just five more outs to make it to the World Series for the first time in 58 years. At which point, Bartman reached for and deflected a foul ball hit by Luis Castillo of the Marlins that Cubs left fielder Moises Alou seemed to have a good chance to catch. The Marlins went on to score eight runs in the inning and win the game, and amid abuse from fans, Bartman was escorted from the park.

The next night, the Marlins won Game 7 at Wrigley and went on to win the World Series, too. Bartman effectively went into hiding.

Bartman's defenders pointed out that he was acting instinctively in reaching for the foul ball and that his action did not cause the Cubs to surrender all those runs in the inning — an error on a potential double-play grounder was the biggest mishap — or lose the next night.

Bartman did apologize after the incident, but it seemed to take years for the resentment toward him to start to diminish. And the Cubs' long championship drought, the importance of that game and Bartman's memorable outfit of Cubs cap, headset and turtleneck when disaster struck all combined to make the incident grow to legendary proportions.

Numerous articles were written about Bartman over the years, and he was the subject of an ESPN 30 for 30 documentary in 2011.

Meanwhile, Bartman scrupulously avoided the news media, declining interview requests and commercial offers.

On Monday, however, he returned to Wrigley to receive his ring, his exile officially over. Whether he had quietly slipped into Wrigley before now to watch the Cubs play is not clear.

In his statement on Monday, Bartman said, "I am relieved and hopeful that the saga of the 2003 foul ball incident surrounding my family and me is finally over."

And if the Cubs make it back to the postseason this year to defend their championship, perhaps Bartman will even throw out a first ball.

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To: Henigin, Mary[Henigin.Mary@epa.gov]; Iglesias, Amber[Iglesias.Amber@epa.gov]
Cc: Page, Steve[Page.Steve@epa.gov]
From: Cortelyou-Lee, Jan
Sent: Tue 11/15/2016 1:59:42 PM
Subject: 2-weeker - Please Print for Steve
OAQPS+Priorities October 31 - Novemeber 11 2016 .docx

Thanks in advance - jan

From: Bremer, Kristen
Sent: Wed 6/21/2017 3:22:30 PM
Subject: News Clips – June 21, 2017

News Clips – June 21, 2017

Air News

Π□□□□□□□□ Court nixes enviros' bid to keep moving in Wyo. haze case *(Greenwire)*

Oil & Gas

Π□□□□□□□□ Maura Healey fighting Scott Pruitt's stay of EPA rule on emissions *(Boston Globe)*

Budget & Staffing

Π□□□□□□□□ EPA plans to buy out more than 1,200 employees this summer *(Washington Post)*

Other News

Π□□□□□□□□ EPA just gave notice to dozens of scientific advisory board members that their time is up *(Washington Post)*

Π□□□□□□□□ ORD's New Deputy Expected To Lead Office's Overhaul, BOSC Selections *(Inside EPA)*

Π□□□□□□□□ AP poll: Few agree with Trump move to ditch Paris accord *(AP)*

Opinion

Π□□□□□□□□ Some in media remain bothered by Pruitt's relationship with energy industry *(The Oklahoman)*

…And in Happier News

Π□□□□□□□□ 4 escaped wolf pups from Durham's Museum of Life and Science found *(WTVD)*

On this day in 1788, the U.S. Constitution comes into effect when New Hampshire is the 9th state to ratify it

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Court nixes enviros' bid to keep moving in Wyo. haze case

Greenwire

By: Sean Reilly

Published: June 20, 2017

A federal appellate court has again rebuffed environmental groups that want to keep forging ahead with a legal challenge to U.S. EPA's regional haze reduction plan for Wyoming.

In a ruling yesterday, a two-judge panel on the 10th U.S. Circuit Court of Appeals turned down the bid by the Powder River Basin Resource Council and two national environmental groups seeking to lift a stay on their share of the consolidated litigation over the 2014 plan. The court had imposed the stay last month to allow a settlement with another challenger, the Basin Electric Power Cooperative, to take effect (*Greenwire*, May 18).

The Powder River council and the other groups, arguing that the deal's implementation could take two years, had asked the court to meanwhile let them proceed separately with their suit. But they hit a wall of opposition from EPA and the state of Wyoming, as well as power producers Basin Electric and PacifiCorp, which contend that the rival lawsuits are so entangled in overlapping issues that they can't be split up.

EPA's regional haze program, dating back to 1999 in its current form, sets a goal of restoring pristine views to 156 national parks and wilderness areas by 2064.

Environmentalists say that the 2014 Wyoming plan doesn't go far enough in cutting pollution from coal-fired power plants and oil and gas industry operations; the state, allied with Oregon-based PacifiCorp and Basin Electric, based in North Dakota, counter that it goes overboard.

In yesterday's ruling, the two-judge panel said it had carefully considered the environmental groups' motion, but otherwise offered no explanation for the decision.

"We're still evaluating our options," Jenny Harbine, an Earthjustice attorney representing the groups, said in a brief interview when asked whether they would continue to pursue the bid.

The litigation, which dates back to 2014, had already been slowed by the amount of time needed to reach the Basin Electric settlement. Early last year, the court had rejected a previous attempt by the same three organizations, which include the National Parks Conservation Association and the Sierra Club, to move ahead separately.

In a filing last week, the groups wrote that EPA, the state and the power producers had failed to provide "any legitimate basis" for denying their motion for separate treatment.

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Maura Healey fighting Scott Pruitt's stay of EPA rule on emissions

Boston Globe

By: Travis Andersen

Published: June 20, 2017

Massachusetts Attorney General Maura Healey is fighting efforts by Scott Pruitt, the head of the US Environmental Protection Agency, to "halt regulation of leaks of greenhouse gas emissions and other harmful air pollutants" tied to the oil and gas industry, her office said Tuesday.

In a statement, Healy's press team said she lead a coalition of 14 attorneys general and the city of Chicago Tuesday in filing a motion to intervene in a federal lawsuit brought by the Clean Air Council against Pruitt.

The motion was filed in a federal appeals court in Washington, D.C.

According to the news release, at issue is "the EPA's unlawful administrative stay of a rule, finalized in 2016 (the 2016 Rule), that would prevent emissions of thousands of tons of the potent greenhouse gas methane," and other pollutants "in facilities constructed after September 2015."

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EPA plans to buy out more than 1,200 employees this summer

The Washington Post

By: Brady Dennis

Published: June 20, 2017

The Environmental Protection Agency plans on shedding more than 1,200 employees by early September through buyouts and early retirements, as part of a broader push by the Trump administration to shrink a government entity the president once promised to eliminate "in almost every form."

The departures would amount to about 8 percent of the current 15,000-person workforce of the EPA, where a hiring freeze also remains in effect. The Trump administration has proposed a 31 percent cut to its budget, the largest percentage reduction of any agency and one that could mean several thousand job losses.

In an email to EPA union leaders this week, an agency attorney said the EPA plans to make buyout offers to as many as 1,228 employees. "As of now," the message read, "the last effective date for employee separations is September 2, 2017, so any applications would have to be in before that date."

The agency's buyout plans will need approval by the Office of Personnel Management and the Office of Management and Budget, which officials hope to receive later this month. "However, in the meantime, we are seeking to work together to reach an agreement over procedures that we will utilize for this next round — should it be approved," the email stated.

The EPA plans to begin holding retirement training webinars for employees each Tuesday and Thursday through the end of July.

Last month, officials disclosed plans to set aside $12 million for buyouts and early retirements this year, as part of an effort to begin "reshaping" the agency's workforce under the Trump administration.

"Streamlining and reorganizing is good government and important to maximizing taxpayer dollars. This includes looking at developing opportunities for individuals to retire early," EPA spokeswoman Liz Bowman said at the time. "It's a process that mirrors what the Obama administration EPA did about four years ago, to ensure that payroll expenses do not overtake funds used for vital programs to protect the environment."

Last week, in a budget hearing on Capitol Hill, EPA Administrator Scott Pruitt defended the push to shrink the agency.

"With respect to the proposed cuts on personnel, that is something that we plan to achieve

through attrition, continuation of the hiring freeze and the initiation of buyouts," Pruitt said. "About 20 percent of the agency is eligible for retirement today. That's going to increase over the next several years."

It remains unclear how the EPA plans to undertake more than 1,200 buyouts without spending more than $12 million. In 2014, according to an inspector general's report, the agency paid $11.3 million in incentives to get 456 employees to voluntarily leave. It shelled out an additional $4.9 million in annual leave payouts, for a total of $16.2 million.

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EPA just gave notice to dozens of scientific advisory board members that their time is up

The Washington Post

By: Chris Mooney and Juliet Eilperin

Published: June 20, 2017

The Environmental Protection Agency has given notice to dozens of scientists that they will not be renewed in their roles in advising the agency, continuing a scientific shake-up that has already triggered resignations and charges from some researchers that the administration is politicizing the agency.

Members of the EPA's Board of Scientific Counselors (BOSC) whose terms end in August will not see them renewed, according to an email sent to members and obtained by The Washington Post, though they can reapply for their posts. Moreover, five meetings of subcommittees of the board, planned for the late summer and the fall, will now be canceled because of lack of membership. They will be held once the board is reconstituted, according to EPA officials.

"It effectively wipes out the BOSC and leaves it free for a complete reappointment," said

Deborah Swackhamer, the current chair of the board's executive committee and an emeritus professor of environmental health sciences at the University of Minnesota.

That executive committee has only five remaining members, after a number of members whose terms were up earlier this year were not renewed. The board also has five subcommittees, but according to an email from Swackhamer, "with the latest information from EPA, 38 of the 49 remaining subcommittee members will not be renewed at the end of August."

EPA officials said the fact that many advisers' terms were ending provided an opportunity to reach out to a broad array of applicants and draw on their expertise.

"EPA is grateful for the service of all BOSC members, past and present, and has encouraged those with expiring terms to reapply," said agency spokeswoman Amy Graham. "We are taking an inclusive approach to filling future BOSC appointments and welcome all applicants from all relevant scientific and technical fields."

The announcement, sent from acting assistant administrator of the Office of Research and Development Robert Kavlock, said that members can reapply but have a June 30 deadline to do so.

Members are appointed to three-year terms, but they are traditionally renewed for another term if they choose to continue serving. Officials in the previous administration had told several advisers they should expect to serve longer than one term, but that is not dictated under board rules.

"To be renewed for a second term is usually anticipated, expected, and the only time you might not serve a second term is if your expertise was no longer needed," Swackhamer said.

The EPA's Board of Scientific Counselors advises the agency's Office of Research and Development, which is being targeted for extremely deep budget cuts, on whether the research it does has sufficient rigor and integrity and addresses important scientific questions.

Peter Meyer, an economist with the E.P. Systems Group who had already resigned publicly from the board's sustainable and healthy communities subcommittee to protest the ongoing shake-up, said that he and his colleagues had thought they would be staying on.

"We were told quite explicitly by the leadership of the sustainable and healthy communities group … that our assignment was a four-to-five-year assignment," Meyer said. "That was what we were told at our first meeting. That produces an assumption that you're going to get reappointed so that you can complete the job."

Scott Openshaw, a spokesman for the American Chemistry Council, which represents the chemical industry, said in an email that the turnover would address his group's and others' "concerns in the past that EPA advisory boards did not include a diversity of views and therefore frequently presented a biased perspective on issues before them."

"All stakeholders, industry and consumers, benefit by ensuring regulations are based on the best science available," he added. "We are hopeful Administrator Pruitt's actions will help to ensure regulatory decisions are based on the highest quality science, enhance accountability, create greater balance, more transparency and fewer conflicts of interest on EPA advisory boards."

Meyer, however, said that he fears the goal is to clear out the membership of these boards so that new members can be appointed, perhaps those who are more favorable to the communities actually being regulated by the EPA.

Elena Craft, a researcher based at the advocacy group Environmental Defense Fund who serves on a subcommittee of the board focused on air, climate and energy, also said she received the notice Monday.

"It's just, yet another example of the administration's disregard for independent scientific counsel, on issues that are critically important to the nation," Craft said. She added that her subcommittee was scheduled to meet in September, but that's now off.

"This gives me a great deal of concern about the erosion of science in this administration," said Robert Richardson, an ecological economist and associate professor in Michigan State University's Department of Community Sustainability, who co-chaired one of the BOSC subcommittees and was let go earlier this spring. "It's hard to understand the rationale behind a decision like this. I understand they might simply want to repopulate [the board] with people of their own choosing. However, this could also be a way of just weakening advisory boards, of diminishing their role by not replacing members."

Richardson said other colleagues had contacted him this week about the news that the EPA would not renew the terms of dozens of additional scientific advisers to the agency.

"I don't think anybody is terribly surprised," he said. "[Trump officials] have been clear that they intend to wipe all these slates clean. They want no continuity from any decisions that were made by the previous administration, even nonpolitical decisions."

Richardson said serving as an effective outsider adviser to the EPA comes with a "steep learning curve" and that over the years he and his colleagues had worked hard during their years on the board to build a rapport with EPA's Office of Research and Development and to serve the agency effectively.

"All that knowledge will be lost," he said.

Pruitt has taken a deep interest in what scientific questions the EPA should be exploring in the coming years, according to his aides, and a transformation of the board could make a shift in focus easier to carry out. Many Republicans have criticized the agency for devoting too much of its resources toward climate change in recent years, as opposed to more traditional environmental threats.

This appears to be just the start of advisory committee changes at the EPA. The agency's Science Advisory Board (SAB) and Clean Air Scientific Advisory Committee (CASAC) also likely will be changed in the future.

One senior administration official, who spoke on the condition of anonymity to discuss ongoing conversations, said that a segment of the Scientific Advisory Board rotates off each year and the agency will issue a Federal Register notice in the next couple of weeks that will invite applicants to replace those members whose terms are expiring.

"EPA is currently deliberating next steps for the SAB and CASAC," said one senior agency official, who spoke on the condition of anonymity because no final decision has been made.

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ORD's New Deputy Expected To Lead Office's Overhaul, BOSC Selections

Inside EPA

By: Maria Hegstad

Published: June 20, 2017

Richard Yamada, the new deputy chief of EPA's Office of Research and Development (ORD), is expected to play a key role overhauling the office and selecting new members for its Board of Scientific Counselors (BOSC), the panel that reviews ORD's research agenda, as he is expected to be the office's political leader until a permanent assistant administrator is nominated and confirmed, sources say.

Yamada, a mathematician, was a professional staffer on the House Science, Space and Technology Committee for four years before joining EPA, according to his LinkedIn page. His appointment to ORD's deputy assistant administrator slot does not require Senate confirmation.

EPA's acting ORD chief Bob Kavlock, a career official who will remain as the office's acting assistant administrator, informed ORD staff last week that Yamada is joining the office, agency sources say. His appointment was first reported by *Bloomberg BNA*.

An agency source says that as the newly installed No. two in ORD, and the office's only political appointee, Yamada will have broad influence in ORD decisions that are sent to upper levels of EPA political management, including recommendations on new members of BOSC, the panel that reviews ORD's research agenda that EPA is reconstituting.

"There is a very intensive program of briefings scheduled for him," the source says of Yamada. "Quite a bit of attention is being paid to the administrator's priorities, supporting regulatory priorities and also the assumption is being made that anything that goes out of ORD to the administrator, they'll be looking to his view."

Yamada's appointment comes as EPA Administrator Scott Pruitt has already made clear that he and other administration officials are planning a significant overhaul for ORD. Among other things, the administration is proposing to slash ORD's budget by more than 45 percent, a reduction that officials have said will be implemented in part by eliminating climate research.

In addition, EPA's budget request has signaled the agency plans to scale back ORD's Integrated Risk Information System (IRIS) database, while giving it a role assessing substances under the revised toxics law and other mandatory regulatory programs.

And Kavlock June 19 informed members of BOSC that the agency is canceling any remaining meetings slated for 2017 while it considers nominations for new members. The action came weeks after Pruitt declined to reappoint 12 members whose first terms were slated to expire this year despite agency staff having assured at least nine of those members they would be reappointed to second terms.

The agency source says Yamada will play a key role because Pruitt, formerly the Oklahoma attorney general, "needs a science person in place" to advise him on decisions such as who to appoint to BOSC.

A second agency source suggests that Yamada, who has been given the novel title of deputy assistant administrator for ORD, will operate at EPA as did Tom Burke, the last ORD chief of the Obama administration. The Senate never confirmed Burke, but Burke was appointed as an ORD deputy and ran ORD de facto.

Kavlock's June 12 email to ORD staff announcing Yamada's appointment reinforces these views. "Richard will report to me in my capacity as acting AA, advise the ORD senior leadership on overall program goals, objectives, policies, strategies and managerial approaches, and program plans; represent as appropriate and requested, the Administrator and Deputy Administrator at various task force, panel and committee on science and operational program activities related to the development of Agency science policies and regulations; carry out projects on behalf of the EPA Administrator and Deputy Administrator; and establish contacts at the highest levels of governmental and non-governmental organizations in order to develop information, evaluate findings and prepare reports," Kavlock writes.

New BOSC Members

Among Yamada's key tasks will be selecting new members for BOSC, the advisory committee established by a former ORD chief in 1996, which reviews ORD's multi-year research plans and their execution by ORD scientists.

Unlike other EPA advisory committees, it was not created by statute. It operates through its executive committee and five subcommittees, each assigned to an ORD research program.

Pruitt made headlines last month when he decided not to renew the terms of 12 of the 18 executive committee members whose first terms were expiring. But EPA, in a May 25 *Federal Register* notice, requested nominations for new BOSC members. The notice indicated that EPA will consider former BOSC members who were not automatically renewed, and set a June 21 deadline for nominations.

Nevertheless, Pruitt's decision drew strong criticism from Deborah Swackhamer, the retired environmental chemistry professor who currently chairs the board. She told a House Science Committee panel last month that the agency's decision not to reappoint the board's members is part of a broader pattern of "marginalization of science" by the Trump administration that goes beyond EPA, though she conceded that the move was lawful.

In an email to *Inside EPA*, Swackhamer said she received an email June 19 informing her of the changes to BOSC. She noted that the administration will need to select dozens of new members.

Given "the latest information from EPA, 38 of the 49 remaining subcommittee members will not be renewed at the end of August. This leaves a total of 11 remaining subcommittee members," she says. Only one of the subcommittees has more than one or two members, with five, and none has a chairman or vice chairman, she adds.

"The Executive Committee has only three remaining members -- the chair (me) and two others, who are also members of the subcommittees. So the total BOSC membership, including its subcommittees, is now only 12," Swackhamer says.

Swackhamer says that while each BOSC subcommittee had been scheduled to meet between August and November, all of these meetings were canceled and there are no scheduled meetings of the executive committee.

'Balanced Approach'

Yamada earned his Ph.D. in applied mathematics from Cornell University in 2007, according to Cornell's website. Prior to joining the House Science committee staff, he was an assistant math professor at the University of Michigan and a postdoctoral Fellow at Duke University's Center for Public Genomics, according to Duke's website. At Duke, "he worked on developing quantitative frameworks to use to evaluate the role of risk in policy-related problems."

Yamada's dissertation was on "Quantitative Models of Transcriptional Elongation," according to his web page at Michigan.

Yamada first worked on the Hill in 2011 as an American Mathematical Society congressional fellow, working in the office of Sen. John Boozman (R-AR), according to Duke's site.

Yamada later drafted an opinion article for the society's newsletter, titled "5 Lessons I Have Learned," where he made the case that policymakers should ensure balance funding for basic and applied research.

Noting wide bipartisan support for science funding generally, he warned of a period of tight budgets when science funding "will not be immune to deep and debilitating cuts, so our community must avoid complacency."

He urged the society's members to "frame science not as a luxury but as something essential, with documented and significant return on investment for our nation. The case for basic science funding is even more imperative, given the tendency by lawmakers to put a lower priority on basic research than on applied research, which they believe will translate into immediate economic growth. A balanced approach must be emphasized."

But Yamada also warns that "the scientific community must be willing to change the existing culture of science to adapt to the new fiscal reality that emphasizes spreading funding opportunities for younger investigators, increased scrutiny for established investigators with significant grant support, and the quality rather than the quantity of publications."

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AP poll: Few agree with Trump move to ditch Paris accord

Associated Press

By: Michael Biesecker and Emily Swanson

Published: June 20, 2017

WASHINGTON (AP) — A new poll finds that less than a third of Americans support President Donald Trump's decision to withdraw from the Paris climate accord, with just 18 percent of respondents agreeing with his claim that pulling out of the international agreement to reduce carbon emissions will help the U.S. economy.

The survey conducted by the Associated Press-NORC Center for Public Affairs Research this month found a slim majority — 52 percent — worry that withdrawing will hurt the economy. Another 27 percent think it won't have an impact either way.

The poll found two-thirds of Americans think climate change is happening, while about 1 in 10 think it's not. The remaining quarter aren't sure.

Seven in 10 Americans think it's a problem that the U.S. government should be working to address.

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Some in media remain bothered by Pruitt's relationship with energy industry

The Oklahoman

By: The Editorial Board

Published: June 21, 2017

THE disdain that some in the media have for President Trump and members of his administration is evident regularly. Recent coverage related to EPA administrator Scott Pruitt provides an example of interest to locals because of Pruitt's Oklahoma ties.

A former state senator, Pruitt won election as attorney general in 2010, and was easily re-elected in 2014. From the beginning he made it clear he would actively oppose Obama administration overreach, particularly regulations that had the potential to harm businesses and individuals.

The administration kept Pruitt's “federalism” unit busy, as his office filed at least 14 lawsuits

against the Environmental Protection Agency. The most high-profile of those were fights against the Clean Power Plan, which mandated cuts that all states had to make to greenhouse gas emissions, and the Waters of the United States rule, which greatly expanded the EPA's control over bodies of water such as ponds and creeks. The U.S. Supreme Court eventually stayed the CPP and an appeals court put the water rule on hold.

Pruitt's nomination as EPA administrator drew swift and strident opposition from environmentalists and some in the media who said Trump's confirmation would essentially be placing the fox in charge of the henhouse. Both sectors remain upset.

An Associated Press story from Washington last week about emails Pruitt sent and received as attorney general did what it could to further establish Pruitt as a minion for the oil and gas industry — which environmentalists see as dead set on ruining the earth as we know it.

The AP, a wire service used by media outlets around the world including *The Oklahoman*, said the emails “underscore just how closely” Pruitt “coordinated with fossil fuel companies” as Oklahoma's AG, “a position in which he frequently sued to block federal efforts to curb planet-warming carbon emissions.”

That's quite an opening paragraph. Pruitt didn't just work with energy companies while attorney general — he worked “closely” with “fossil fuel companies” (the ultimate bogey men) to essentially keep global warming from abating.

The AP report went on to note that some of Pruitt's emails involved the Domestic Energy Producers Alliance, a trade group that, as AP pointed out, includes “billionaire Harold Hamm, a political backer of Pruitt and a frequent adviser to President Donald Trump.”

We've always found it interesting how some in the media are quick to identify conservatives (such as Hamm) as “billionaires.” The Koch brothers, for example, aren't just supporters of conservative (and other) causes. They're “billionaire” supporters. The tag is intended to touch a nerve with those who have a problem with the "greedy" 1 percent — but only those 1 percent who don't share their worldview.

Pruitt was rightfully criticized for not promptly turning over emails to Democratic senators prior to his confirmation vote earlier this year. And it's possible this latest batch of emails could provide additional fodder for criticism. But the fact Pruitt regularly corresponded and dealt with energy industry officials as attorney general of a state where energy is the No. 1 industry should not be surprising nor should it, by itself, be considered nefarious.

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4 escaped wolf pups from Durham's Museum of Life and Science found

ABC11 – WTVD

Published: June 20, 2017

DURHAM (WTVD) -- Four endangered Red Wolf pups are back where they should be after escaping their den Monday night, at the Museum of Life and Science in Durham.

Three or four pups strayed away from the pack - potentially chewing or tugging through a gate opening in their exhibit according to the museum's communications manager, Leslie Pepple.

"We were able to determine they were most likely somewhere in this wooded campus behind me," Pepple said, pointing toward a large section of the museum's outdoor exhibits that were closed off.

Red wolves are critically endangered, with less than 300 in the world, so the search was on right away, and in an effort to find the pups, the museum closed its train ride.

"They're probably scared," a visiting child said.

"We came over to see the wolves this time, but it will be the next time," the mother of another said.

Signs blocked off the search area.

Folks at the park asked questions about the wolves' whereabouts. Blocked in by the park's perimeter fence, the pups likely hid in the woods near their exhibit, according to museum officials.

That's where three of the four were found Monday night, looking for their parents.

(Credit: Courtney Cawley)

"They are not 100 percent weened, so they would be looking for that food source and the reassurance that comes from their parents," Pepple said.

One remained, and suddenly, staff zipped by around noon, Tuesday - the last pup was found being fed by papa wolf through the new hole in the gate (which has now been re-enforced).

"We're delighted to have all of our pups back and to have the next generation here at the museum," Pepple said.

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To: Henigin, Mary[Henigin.Mary@epa.gov]; Iglesias, Amber[Iglesias.Amber@epa.gov]; Page, Steve[Page.Steve@epa.gov]
From: Cortelyou-Lee, Jan
Sent: Tue 6/13/2017 2:52:37 PM
Subject: OAQPS+Priorities June 12 - 23 2017 .docx (Revised)
OAQPS+Priorities June 12 - 23 2017 .docx

Thanks Mary for sharing this revision with Steve

To: Leslie Humphrey[Humphrey.Leslie@epa.gov]
From: Skelley, Dana
Sent: Tue 3/21/2017 9:54:28 PM
Subject: FW: quick need
sierra club matters - march 2017.docx

SC matters. For your use in providing to OGC, if you think it would help Kevin and Rich.

Dana M. Skelley

Acting Deputy Regional Counsel

U.S. EPA, Region 7

(913) 551-7923

From: Chen, Alexander
Sent: Tuesday, March 21, 2017 3:49 PM
To: Skelley, Dana <Skelley.Dana@epa.gov>
Subject: RE: quick need

Let me know if this fits what you need.

To: Sanders, LaTonya[Sanders.Latonya@epa.gov]
From: Weber, Rebecca
Sent: Tue 6/27/2017 4:59:05 PM
June 2017 Nebraska Profile.docx

To: Gibson, Benjamin[gibson.benjamin@epa.gov]; Gray, Stuart[Gray.Stuart@epa.gov]; Herndon, Godfrey[herndon.godfrey@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Perlmutt, Lars[perlmutt.lars@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]; South, Mia[South.Mia@epa.gov]; Spangler, Matthew[Spangler.Matthew@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Sutton, Lisa[Sutton.Lisa@epa.gov]; Vetter, Cheryl[Vetter.Cheryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Johnson, Yvonne W
Sent: Wed 10/4/2017 3:43:30 PM
Subject: News Clips – October 4, 2017

News Clips – October 4, 2017

Ozone

Π□□□□□□□□ Missed Ozone Deadline Draws Threat of Lawsuit Against EPA *(BNA)*

Π□□□□□□□□ Groups decry EPA's failure to meet ozone deadline *(Greenwire)*

Π□□□□□□□□ CBD Cites Pending EPA Ozone Designations To Halt Oil, Gas Lease Sale *(Inside EPA)*

Π□□□□□□□□ EPA says it's working with states after missing deadline for ozone rule *(Washington Examiner)*

Other Air News

Π□□□□□□□□ House, Senate Lawmakers Probe Air Quality Impacts Of Increased Wildfires *(Inside EPA)*

Π□□□□□□□□ GOP Introduces Bill to Wipe Out State Air Pollution Rules *(AP)*

Π□□□□□□□□ EPA Opts for Pollution Trading Over Emissions Controls in Texas *(BNA)*

Π□□□□□□□□ Court OKs more time for Ark. haze talks *(Greenwire)*

Coal

Π□□□□□□□□ Coal Firms Seek High Court Review Of Suit Over Air Law 'Jobs' Evaluations *(Inside EPA)*

Clean Power Plan

Π□□□□□□□□ The EPA Could Soon Formally Propose Repealing Obama's Key Climate Change Regulation *(Reuters)*

Π□□□□□□□□ Pruitt is poised to kill the climate rule. What's next? *(Climatewire)*

Π□□□□□□□□ Utilities Coalesce Around Plan for New Carbon Dioxide Standards *(BNA)*

Regulatory News

Π□□□□□□□□ EPA launches industry partnership program for regulating *(The Hill)*

Π□□□□□□□□ Agency hosts industry for 'mutual admiration' talk *(Climatewire)*

Other News

Π□□□□□□□□ Fancy dinners, far-flung speeches: Calendars detail EPA chief's close ties to industry *(Washington Post)*

Π□□□□□□□□ EPA's Scott Pruitt Spends Much of His Time With Executives From Industries He Regulates *(New York Magazine)*

Π□□□□□□□□ 6 big climate meetings on Pruitt's calendar *(Climatewire)*

Π□□□□□□□□ EPA's big shift: Will Scott Pruitt fundamentally change environmental protection? *(Christian Science Monitor)*

Π□□□□□□□□ Gina McCarthy says it's 'not easy' to watch Trump kill off her EPA rules *(Washington Examiner)*

Π□□□□□□□□ Interior, EPA chiefs: No plans to pay back charter flights *(AP)*

Π□□□□□□□□ Oil lawyer gets waiver from Trump ethics pledge *(E&E News)*

Opinion

Π□□□□□□□□ Undermining the Rule of Law at the E.P.A. *(New York Times)*

Π□□□□□□□□ EPA is losing sight of its mission to protect Americans *(The Hill)*

…And in Happier News

Π□□□□□□□□ Swedish cat missing for a year returned to owner in England *(UPI)*

On this day in 1883, the Orient Express departs on its first official journey from Paris to Istanbul

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Missed Ozone Deadline Draws Threat of Lawsuit Against EPA

Bloomberg BNA

By: Jennifer Lu

Published: October 4, 2017

Environmental groups notified the EPA Oct. 3 that they would sue over a missed deadline for the agency to decide which areas in the U.S. exceed updated ground-level ozone standards set in 2015.

Without input and approval from the Environmental Protection Agency, states can't begin to plan how they will control local ozone levels according to the more protective standards, or ask neighboring states to reduce pollution that blows across state borders.

The EPA was supposed to issue its decisions by Oct. 1. An agency spokesperson declined to say when the EPA would issue its decisions or the reason for the delay, but told Bloomberg BNA in an email that the EPA is “continuing to work closely” with states on the process.

EPA monitoring data suggests that 118 counties in 22 states exceed the 2015 ozone standards.

Exposure to ground-level ozone, or smog, is known to increase the prevalence of asthma and other respiratory diseases. Power plants, refineries, chemical plants, and cars are major sources of pollution that contributes to ozone formation. Chemicals released from burning fuel react in the presence of sunlight to form ozone.

The EPA in 2015 set the ozone standards at 70 parts per billion, down from 75 ppb previously. States were given a year to identify areas that do not meet updated ozone standards and submit their recommendations to the EPA for review.

The EPA then had a year to approve or modify states' designations. In June, Administrator Scott Pruitt announced a one-year delay for designations, but the agency reversed itself after state attorneys general and environmental and public health advocacy groups sued.

Advocacy organizations, including the Sierra Club and the American Lung Association, are now threatening to sue again over the missed deadline. The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P. Bloomberg BNA is an affiliate of Bloomberg L.P.

"This is a process that we've been through multiple times," Janice Nolen, assistant vice president of national policy at the American Lung Association, told Bloomberg BNA. "The delay means that the process of cleaning up the air gets delayed. It is not only disappointing, it is dangerous to public health. It's hard to understand why EPA would have missed this deadline."

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Groups decry EPA's failure to meet ozone deadline

Greenwire

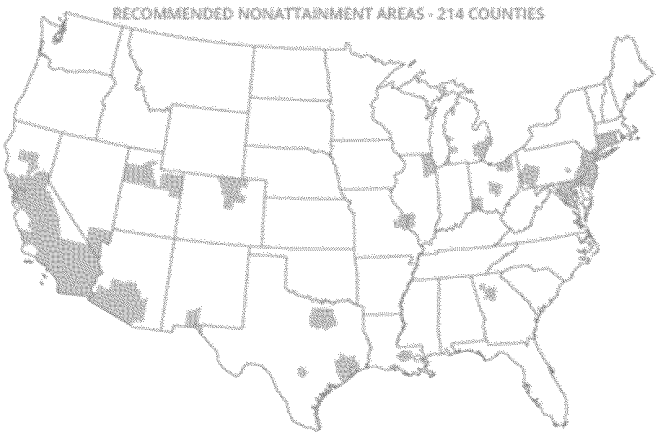
By: Sean Reilly

Published: October 3, 2017

Public health and environmental groups voiced dismay and anger today at U.S. EPA's failure to meet a statutory deadline to make final compliance decisions for its 2015 ground-level ozone standard.

"To say the least, it's disappointing," said Janice Nolen, the American Lung Association's assistant vice president for national policy, in an interview. "It's crucial that these steps be put in place in order to protect public health."

Under the Clean Air Act, the attainment determinations had been due Sunday, although it was expected that EPA would allow itself an extra day. But the agency has yet to release the designations or offer a detailed explanation for the delay. In an emailed response late this afternoon to questions posed almost seven hours earlier, a spokeswoman said that EPA "is continuing to work closely with the states to work through the designations process for the 2015 ozone standard." She did not reply to a separate question on the agency's timetable for making the final decisions.



The District of Columbia and 214 counties in 21 states are in nonattainment for the 2015 ozone standard, according to preliminary data turned in last year. Congressional Research Service

EPA Administrator Scott Pruitt "is showing a blatant disregard for the law by refusing to give Americans a full accounting of how much unsafe smog they're breathing," John Walke, a senior attorney at the Natural Resources Defense Council, said in a news release. "That's irresponsible."

Both the American Lung Association and NRDC are among the plaintiffs in a lawsuit seeking to enforce the Oct. 1 deadline. The attainment designations are an important milestone because they start the clock for states to come up with cleanup plans.

Under the Obama administration, EPA had tightened the ozone standard in October 2015 from 75 parts per billion to 70 ppb, citing the need to protect public health in light of new research showing that ozone posed dangers at lower levels than previously thought.

It was only the fourth time since 1971 that EPA had revised its air quality benchmark for ozone, the main ingredient in smog and a lung irritant linked to asthma attacks in children and aggravated breathing difficulties for people with emphysema. Ozone is closely associated with the use and production of fossil fuels; it is generated by the reaction of nitrogen oxides and volatile organic compounds in sunlight.

Bringing the nation into full compliance with the tighter standard, however, could take decades. The first step toward implementation came last fall when states turned in their attainment recommendations; 214 counties and the District of Columbia are failing to meet the 70 ppb standard, according to a recent Congressional Research Service report.

Under the Clean Air Act timetable, EPA was supposed to make the final decisions by this past weekend. But the energy industry and other business groups have long been lobbying for a delay, noting that EPA is still in the process of implementing the previous 75 ppb standard set in 2008. In June, Pruitt announced a one-year extension for all attainment designations for the 2015 ozone standard on the grounds that he needed more information before making final decisions.

Public health groups and Democratic-led states sued, however, to block the extension; in August, Pruitt backed down, but left the door open to further postponements in at least selected areas. The consolidated litigation is pending before the U.S. Court of Appeals for the District of Columbia Circuit. EPA is seeking to have the suit dismissed as moot.

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CBD Cites Pending EPA Ozone Designations To Halt Oil, Gas Lease Sale

Inside EPA

By: Dawn Reeves

Published: October 3, 2017

In an early sign of the effects of EPA's pending ozone designations, environmentalists are protesting a massive planned Bureau of Land Management (BLM) oil and gas lease sale slated for Utah in December, alleging in part that the bureau failed to analyze the emissions impact of the leasing on EPA's expected nonattainment designation for the area.

The Center for Biological Diversity (CBD) and other groups Oct. 2 formally protested BLM's planned Dec. 12 lease sale of 75 parcels of land covering 94,000 acres in Utah, charging that the environmental assessment (EA) the bureau conducted under the National Environmental Policy Act (NEPA) failed to adequately assess air quality impacts and failed to demonstrate conformity with the Clean Air Act.

In addition, the groups charge the assessment failed to adequately address climate impacts in the EA and that it failed to adequately address impacts to endangered and sensitive species.

The protest also calls for a full environmental impact statement, rather than a less-detailed EA.

To address their emissions concerns, the groups suggest that BLM can control the emission "in a number of ways including, but not limited to, choosing not to lease certain areas or by including stipulations that require limits on emission or emitting practices."

The protest comes on one day after EPA missed its legal deadline to issue new designations indicating which areas are -- or are not -- in attainment with the Obama administration's 2015 ozone national ambient air quality standard (NAAQS).

The ozone NAAQS is set at 70 parts per billion (ppb), more stringent than the prior NAAQS, which was established at 75 ppb in 2008.

According to EPA, dozens of areas are likely to be found in nonattainment with the standard, requiring stricter controls in those areas.

Earlier this year, EPA Administrator Scott Pruitt took steps to delay the designations nationwide, but he later abandoned that plan, suggesting he may delay select designations.

"Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation," Pruitt said in an Aug. 3 statement. "We do not believe in regulation through litigation, and we take deadlines seriously."

Despite Pruitt's assurances, the agency has now missed its Oct. 1 legal deadline to issue the designation decisions, saying it had "no further information" about when it will issue the designations for the 2015 NAAQS. It is already facing a threatened lawsuit from environmentalists over the delay.

But even before EPA issues its decisions, expected nonattainment designations are already playing a role in pending resource and other decisions, such as BLM's planned lease sale.

'Reasonably Foreseeable'

According to environmentalists' protest notice, EPA is expected to approve Utah requests to

designate part of the leasing area in non-attainment and, as a result, BLM must assess that as a "reasonably foreseeable" action in its NEPA review.

The failure to identify the air quality impacts also violates the Clean Air Act, the group says, noting that the Uintah Basin in northeastern Utah has experienced hazardous ozone levels exceeding the NAAQS in recent winters, with exceedances lasting up to 39 days at individual stations and readings higher than summertime levels in smog-plagued Los Angeles.

"Numerous studies show that the majority of ozone precursor emissions come from oil and gas operations," the letter says, with volatile organic compounds and methane being the most prevalent.

Yet the groups note that BLM in its response to comments in the EA "continues to ignore the state of Utah's actual measurement of ozone levels" in the area" as well as "the state's recommendation to designate both as nonattainment for ozone under the Clean Air Act. The EPA is scheduled to take action on the State's recommendation this coming October, officially designating the Uintah Basin as nonattainment."

The letter notes the revocation of EPA's effort to delay designations by a year to note, "EPA will very likely approve" the state's non-attainment recommendation, which "will then trigger the BLM's obligation to undertake a 'conformity' analysis" -- to demonstrate the new activity will not cause additional NAAQS exceedances - "before approving any new oil and gas leasing" as required by the air law for non-attainment areas.

"BLM must fully comply with these obligations before approving the December 2017 lease sale because the EPA's ultimate approval of nonattainment is a reasonably foreseeable action under" NEPA, the groups argue.

And they seek to preempt BLM's argument that leasing does not cause direct emissions. "Leasing is clearly a cause of future project emissions -- if there are no leases, there are no new emissions. . . . They originate in the same proposed nonattainment area, but simply at a later time."

Climate Impacts

In addition to the ozone issue, the protest -- which in addition to CBD includes Elders Rising, the Green River Action Network, Living Rivers, the Sierra Club and Utah Physicians for a Healthy Environment -- argues that BLM "failed to adequately analyze and assign significance to climate change impacts form this leasing decision, in violation of NEPA."

It says that the EA's assessment of the direct and indirect greenhouse gases from the lease sale.

are "still inadequate as it fails to adequately acknowledge and report direct, indirect and cumulative [GHGs] from this project, and fails to adequately disclose the impacts from those emissions."

The EA says that the GHGs would be 2,284 tons per year for a single oil well and 2,415 tons per year for a gas well.

Yet the groups say it is unclear how those estimates were derived, and that BLM continues to provide estimates only for development and production "rather than the cumulative total [GHGs] from development and production activities that would be produced over the lifetime of the wells."

The EA also ignores fugitive methane emissions that escape from wells, storage and processing equipment, and it "still fails to report the downstream emissions from end-use combustion of oil and gas produced by the wells" -- an estimate the protest provides, extrapolating from BLM's estimate, to conclude that "downstream emissions from 135 projected wells would equal [about] 4.5 million metric tons of [carbon dioxide]."

The EA must provide estimates of methane and nitrogen dioxide emissions as well, it says.

Finally, it notes that the EA concluded it was not possible to assign a "significance" value to the GHG estimates and that the United States does not have a carbon budget.

The groups note, however, that as a signatory to the United Nations Paris Agreement, the U.S. has committed to keeping global average temperature rise to well below 2-degrees Celsius. The protest does not address the fact that President Donald Trump has said he would withdraw from that agreement.

"The more than 4.5 million metric tons of CO2 that would result from the lease sale comprise a measurable 0.012 percent of the remaining U.S. carbon budget for staying well below" 2-degrees C, "which is clearly significant in the scope of national, state and local level commitments to implementing rapid GHG emission reductions.

"At a time when the U.S. must rapidly ratchet down GHG emissions to avoid the worst dangers of climate change, the BLM should not be committing to new fossil fuel development and infrastructure on our public lands that locks in carbon intensive oil production for years into the future."

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EPA says it's working with states after missing deadline for ozone rule

Washington Examiner

By: John Siciliano

Published: October 3, 2017

The Environmental Protection Agency said Tuesday that it is hammering out details with states on implementing the Obama administration's 2015 rule for ozone pollution, as environmental groups railed against EPA Administrator Scott Pruitt for missing Monday night's legally enforceable deadline for meeting the regulations.

The agency is "continuing to work closely with the states to work through the designations process for the 2015 ozone standard," said EPA spokeswoman Liz Bowman in an email to the *Washington Examiner*.

A number of environmental groups, after hearing no official word from the agency, began criticizing the agency, saying it is legally obligated to meet the rules by issuing specific information on which areas of the country exceed the pollution standards and must develop strategies to comply with the caps.

Ozone is a component of smog that is blamed for causing asthma and other respiratory problems.

"Since they did not release any information like they were supposed to, we are very concerned given the Trump administration's record they will not enforce this law and try to repeal it," the Sierra Club said.

The EPA had attempted to delay the rules by one year, but a court ruling forced the agency to continue with the regulations. The EPA agreed to abide by the end of Monday.

Bowman's statement suggests that the agency thinks it's is fine to continue deliberating with states on which areas would exceed the standards, which critics say are so strict that many of the U.S.' park lands, which have no industry, would not be able to comply.

Manufacturers and the oil industry argue that most states have not met the 2008 rules for cutting ozone and should be allowed to do that before stricter regulations are imposed. The manufacturers say the strict ozone rules would limit development and economic growth in many of the nation's regions, especially its metropolitan areas.

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House, Senate Lawmakers Probe Air Quality Impacts Of Increased Wildfires

Inside EPA

By: Stuart Parker

Published: October 3, 2017

House and Senate lawmakers are probing the air quality and greenhouse gas impacts of increased catastrophic wildfires, while states affected by one of the worst recent wildfire seasons will test the scope of EPA's "exceptional events" policy that provides Clean Air Act exemptions for air pollution associated with natural disasters.

The House Energy & Commerce Committee's environment panel will hold a hearing Oct. 4 on "Air Quality Impacts of Wildfires: Perspectives of Key Stakeholders," which will examine the air quality impacts of massive Western wildfires this year. It follows a Sept. 27 Senate Environment & Public Works (EPW) environment panel hearing on the topic that focused on federal land management practices that critics say contribute to wildfire.

A GOP staff memo for the upcoming House hearing details the potential adverse air quality impacts of the recent fires. "Wildfires, which release enormous amounts of particulate matter and greenhouse gases, are major contributors to overall national and international emissions," the memo says. The acreage burned this year is already almost double that burned in 2016, and the bad 2017 season is "not an anomaly," but is rather a recent trend toward more and larger fires, the memo says.

The memo adds that, "smoke from wildfires often results in the worst air quality days of the year " for affected areas, for example with pollution levels of fine particulate matter (PM2.5) far in excess of EPA's national ambient air quality standard of 12 micrograms per cubic meter.

The witness list for the House hearing Oct. 4 includes John Bailey, a professor at the Oregon State University College of Forestry; Jim Karels, director of the Florida Forest Service; Knox Marshall, vice president of resources for the Murphy Company, a wood products company; and Christopher Topik, a forest policy director with the Nature Conservancy -- suggesting the emphasis may be on forestry practices.

Meanwhile, Senate EPW Chairman John Barrasso (WY) at the Sept. 27 hearing said, "I'm concerned about health impacts of these wild fires," noting the "very unhealthy" levels of pollution reached in some parts of the West.

Senate Hearing

The Senate panel focused its discussion on legislative measures to reduce wildfire impacts that would affect federal land management practices and the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA). For example, several lawmakers of both parties and witnesses spoke against the impact of a 2015 ruling of the U.S. Court of Appeals for the 9th Circuit in *Cottonwood Environmental Law Center v. U.S. Forest Service*.

The ruling requires the Forest Service, a federal land manager, to revise its overarching plans for endangered species management when a new species is listed, in this case the lynx. This is unnecessary and has held up forest management projects that could have helped to limit wildfire impacts, several lawmakers said. Senator Steve Daines (R-MT) is sponsoring a bill, S. 605, with support from Sen. Jon Tester (D-MT) and others, to codify the Obama Administration's prior position that federal agencies need not consult the U.S. Fish and Wildfire Service on a programmatic level when a new species is listed as endangered.

EPW ranking member Sen. Tom Carper (D-DE) said, "climate change contributes to making these disasters more severe. They are becoming more common, more destructive and exponentially more expensive," but warned the panel to be "very careful" about making "sweeping changes" to the ESA or NEPA that would have adverse consequences.

Much of the Senate hearing revolved around discussion of whether the federal government, which owns and manages much forest land in the West, should more actively manage wild lands by thinning trees and undergrowth, or permitting other forms of forestry. This would reduce "fuel loads" and reduce the impact of fires, witnesses testified, including Jessica Crowder, policy adviser for Republican Wyoming Gov. Matthew Mead, and Collin O'Mara, president and CEO of the National Wildfire Federation.

Exceptional Events

Meanwhile, the House memo also refers to EPA's exceptional events rule, revised by the Obama administration in October 2016 in order to streamline states' use of the policy.

Along with technical guidance, including a specific wildfire guidance, the rule provides mechanisms for states to exclude air quality data gathered during events meeting the "exceptional" definition from demonstrations of NAAQS compliance, and wildfires typically qualify as such events.

However, as the House staff memo notes, the policy does not necessarily allow state regulators to exclude emissions from "prescribed" fire, which is used to deliberately reduce forest fuel loads, avoiding risk of much larger, catastrophic wildfires later.

The memo cites a Sept.12 Forest Service "briefing paper" on wildfire and NAAQS, which states, "The pollutants in smoke can cause exceedances of the [EPA's] air quality standards for ozone and PM2.5. This could lead to a designation by EPA of a nonattainment area which can have substantial economic ramifications and can complicate future use of prescribed fire."

EPA's 2016 guidance does not categorize prescribed fire as wildfire unless the prescribed fire starts an unintended wildfire. Otherwise, prescribed fires, as human-caused activities, must be "human activity unlikely to recur" and "not reasonably controllable or preventable" in order to qualify as "exceptional."

The bad 2017 wildfire season is also likely to spur debate over "background" levels of ozone, which is naturally-occurring or originates in other countries. Critics of EPA's 2015 ozone NAAQS of 70 parts per billion (ppb), tougher than the prior limit of 75 ppb, say that high background ozone levels can make the new limit impossible to attain. EPA is currently determining whether to reconsider the 2015 ozone NAAQS.

If the tougher NAAQS stays in effect, states will have to rely on air law regulatory exclusions such as the exceptional events rule to avoid nonattainment designations because of high

background ozone. Nonattainment designations trigger the need for states to craft air quality plans containing measures to reduce ozone, such as tough pollution controls on industry. EPA's statutory deadline for issuing attainment determinations for the 2015 ozone NAAQS was Oct. 1 -- although the agency at press time appeared to have missed the deadline.

Litigation is currently pending in the U.S. Court of Appeals for the District of Columbia Circuit in which environmentalists are challenging the revised exceptional events policy, including their claim that the agency's definition of a "natural" event unlawfully includes man-made events.

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GOP Introduces Bill to Wipe Out State Air Pollution Rules

Associated Press

Published: October 2, 2017

MADISON, Wis. (AP) — Republicans are proposing eliminating any state air pollution rule that goes beyond federal regulations.

Reps. Jesse Kremer and Cody Horlacher and Sen. Duey Stroebel have introduced a bill that would eliminate any state air pollution rules that go beyond federal regulations.

They said in a memo seeking co-sponsors that the state regulates nearly 300 more air pollutants than the federal government and less than a third of those pollutants are actually emitted. They say the state regulations are overly burdensome on businesses.

The Department of Natural Resources would still be allowed to promulgate rules going beyond federal regulations in the future but those rules would be in effect for 10 years.

Messages left with environmental groups Midwest Environmental Advocates and Clean Wisconsin weren't immediately returned.

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EPA Opts for Pollution Trading Over Emissions Controls in Texas

Bloomberg BNA

By: Nushin Huq

Published: October 4, 2017

Eight Texas coal-fired power plants can join an air pollution trading program instead of installing expensive new sulfur dioxide controls, the EPA said as part of a rule aimed to improve visibility in the state.

Joining the trading program could prove to be a boon for utilities such as Luminant Generation Co. LLC that said installing the required pollution controls would have been cost-prohibitive and would have forced some of the power plants to close. The companies that own the eight affected coal-powered power plants include Luminant, Xcel Energy, and Dynegy.

Instead, the plants may participate in a still-to-be-finalized intrastate emissions trading program, the agency said in its final rule approving portions of Texas's plan to improve visibility in national parks and wilderness areas, including Big Bend National Park.

The regulation, signed by Environmental Protection Agency Administrator Scott Pruitt Sept. 29, was released by environmental advocates Oct. 3.

Many coal plants nationwide have already updated their pollution controls and the new trading program will not ensure a decrease in emissions, Elena Saxonhouse, senior attorney for the

Sierra Club, told Bloomberg BNA. The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P. Bloomberg BNA is an affiliate of Bloomberg L.P.

Saxonhouse said it's all just "smoke and mirrors," which won't help reduce pollution, and she expects the environmental group will challenge the final rule in court.

A spokeswoman for the Texas Commission on Environmental Quality said it is still reviewing the rule and has no comment at this time. Bloomberg BNA couldn't reach the Texas Attorney General's Office.

New Administration

The EPA originally imposed sulfur dioxide limits on eight Texas coal-fired plants in December 2015 after disapproving portions of the state's regional haze plan.

Energy companies, power plants, Texas, and industry filed a suit against the rule. The U.S. Court of Appeals for the Fifth Circuit in July 2016 stayed the federal plan for the Texas regional haze rule because the petitioners "could suffer irreparable injury in the absence of a stay," the court said in its order.

After the 2016 presidential election, the Obama administration's EPA filed a status report asking the court to remand the federal plan to address regional haze in Texas. In August 2017, the Trump administration asked the U.S. District Court for the District of Columbia to extend the deadline from Sept. 9 to Dec. 31 to issue the final visibility rule for Texas, citing a breakthrough in talks with state regulators.

The court later denied the agency's request to extend the deadline.

Cost Savings

Luminant, a subsidiary of Vistra Energy Corp., which owns several power plants that would be covered by the regulation, projected the Obama administration proposal would require utilities to spend more than $3 billion dollars on emissions controls.

The rule will affect several Luminant plants including those at Big Brown, Martin Lake, Monticello, and Sandow; NRG's Limestone plant; Dynegy's Coleto Creek plant; Xcel Energy's Tolk plant; and the San Miguel Electric Cooperative plant. Luminant declined to comment to Bloomberg BNA.

Prior to the final rule, NRG Energy had already decided to switch fuel used at its Limestone power plant from lignite to coal that has a lower sulfur content, David Knox, a company spokesman, told Bloomberg BNA.

Under the final rules, the normal attrition of older sources will likely create an allowance pool big enough for the other covered sources without any new expenditures on end-of-pipe controls, Eric Groten, a partner at Vinson& Elkins's Environmental and Natural Resources practice, told Bloomberg BNA in an email.

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Court OKs more time for Ark. haze talks

Greenwire
By: Sean Reilly

Published: October 3, 2017

U.S. EPA and an array of litigants will get another four weeks to work out their differences on a regional haze reduction plan for Arkansas.

In an unsigned order issued late yesterday, the 8th U.S. Circuit Court of Appeals agreed to the joint request from all sides to keep the consolidated lawsuits in abeyance until Oct. 31.

The litigation has been on hold since March; while the St. Louis-based court had said this summer it would not look favorably on any further delays, it was apparently persuaded by last week's plea from EPA, the Arkansas attorney general's office, power producers and environmental groups that they needed more time to work out a deal that could resolve at least some of the issues in the case (*Greenwire*, Sept. 27). That assessment appears to represent progress toward an agreement; in June, the National Parks Conservation Association and the Sierra Club had denounced the settlement talks as a sham and unsuccessfully urged the court to restart legal proceedings (*Greenwire*, June 12).

The regional haze program, authorized by the Clean Air Act dating in its current form back to 1999, is intended to restore unclouded visibility to 156 national parks and wilderness areas by 2064. EPA's initial plan for Arkansas, published last September after federal regulators rejected a state strategy as inadequate, aimed to cut emissions of sulfur dioxide and nitrogen oxides (NOx) owned by Entergy Corp. and other power producers by tens of thousands of tons annually.

Under the Trump administration, however, EPA has since proposed to push back the deadlines for several plants to meet the new NOx limits from 2018 to early 2020. The Arkansas Department of Environmental Quality is also working on revisions to a state implementation plan that could eventually narrow or render moot the issues in the litigation, according to last week's status report.

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Coal Firms Seek High Court Review Of Suit Over Air Law 'Jobs' Evaluations

Inside EPA

By: David LaRoss

Published: October 3, 2017

Coal firms are asking the Supreme Court to reinstate a district court's mandate for EPA to evaluate the employment effects of Obama-era Clean Air Act policies on the energy sector and other industries, saying an appellate ruling that overturned the lower court's decision creates a “blind spot” in judicial review of agency duties.

An alliance of coal companies led by Murray Energy filed a Sept. 27 petition for *certiorari* with the high court, calling on it to reverse the June 29 ruling by the U.S. Court of Appeals for the 4th Circuit that said EPA's duty under the air law to evaluate jobs impacts from its policies is too broad to be enforced through a citizen suit.

Murray and its allies say the judges' reading of the air law unfairly narrows courts' authority to enforce statutory mandates -- such as an air law provision saying EPA "shall" conduct the jobs review they are seeking.

"The result of the Fourth Circuit's decision is a broad yet ill-defined blind spot in the courts' ability to oversee EPA compliance with its statutory duties. . . . Under the Fourth Circuit's ruling, each is now subject to a case-by-case review to determine whether the 'act or duty' at issue is sufficiently 'specific' and 'discrete' to be judicially reviewable," the petition says.

If the high court takes up the case, known as *Murray Energy, et al., v. EPA*, it would revive the possibility that a ruling in the companies' favor could expand plaintiffs' rights to bring citizen suits against EPA for dereliction of broad statutory duties as opposed to "discrete" actions -- for example alleging an overall failure to protect air quality without litigating a specific rule, as opposed to challenging a particular permit or rulemaking.

Most prominently Jeffrey Wood, the acting head of DOJ's Environment & Natural Resources Division, has raised fears that a ruling in Murray's favor could open the door to "programmatic" suits, telling a May 18 American Bar Association panel on environmental enforcement in Washington, D.C., that the case "is less about section 321(a) [of the air law] than it is about maintaining the limits on citizen suits against EPA under section 304 of the Clean Air Act."

Despite their frequent opposition to environmentalist citizen suits, Murray and its allies invoke the potential narrowing of those suits in the Sept. 27 petition, noting that EPA has already invoked the 4th Circuit's ruling to seek dismissal of two cases. The suits are *Ohio Valley Environmental Coalition, et al. v. Scott Pruitt, et al.*, which is a 4th Circuit case that deals with Clean Water Act (CWA) cleanup plans, and *Blue Water Baltimore, Inc., et al. v. Pruitt*, a Maryland federal district court CWA suit seeking expanded permit mandates for stormwater.

Jobs Review

In *Murray*, the coal companies allege EPA is violating Clean Air Act section 321(a) which says EPA must perform "continuing evaluations of potential loss or shifts of employment which may result" from air rules and their implementation.

Murray and its allies have maintained the agency has refused to comply with that duty, and won a district court ruling that gave it until July 1 -- less than six months from the decision -- to craft an evaluation for the coal sector, with a longer timeline for developing a broader compliance plan.

The Obama EPA fought the attempt to force the jobs review, and despite the Trump administration's deregulatory agenda the agency has continued to defend against Murray's litigation, securing its win with the 4th Circuit ruling that overturned the district court ruling.

The 4th Circuit scrapped the jobs review mandate just days before the deadline to complete the assessment, with a unanimous three-judge panel holding that only "discrete" and "specific" duties fall under the citizen suit provisions in section 304 of the law.

Writing for the panel, Judge Henry Floyd said EPA has "considerable discretion in managing its Section 321(a) duty. The agency gets to decide how to collect a broad set of employment data, how to judge and examine this extensive data, and how to manage these tasks on an ongoing basis. A court is ill-equipped to supervise this continuous, complex process."

The coal companies say in their new petition that the 4th Circuit ruling goes against the clear text of section 304, which allows citizen suits over any alleged "failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator," and Article III of the Constitution, which sets out the powers and responsibilities of federal courts.

"This approach violates the express statutory language of the Clean Air Act and this Court's

repeated admonitions that, where Congress vests the federal courts with authority to hear a claim within the scope of Article III, the courts cannot decline jurisdiction for prudential reasons," the petition says.

Statutory Duty

The petition also notes that the high court's 2015 labor ruling *Mach Mining, LLC v. Equal Employment Opportunity Commission* dealt with the commission's broad statutory duty "to 'endeavor' to eliminate alleged unlawful employment practices" that the high court nonetheless found to be enforceable.

The companies go on to list a host of Clean Air Act policy areas that they say could be exempt from judicial review under the 4th Circuit's ruling.

"Duties to review state implementation plans, develop federal implementation plans, evaluate and report on issues important to the administration and enforcement of the Clean Air Act, promulgate guidelines and guidance, review and approve designations, review and update existing emission standards, and take a host of other steps required by the Clean Air Act are all implicated," the petition argues.

Murray and its allies say that despite EPA Administrator Scott Pruitt's public promises to pursue a jobs study regardless of court rulings, the agency has shown no inclination to do so since the 4th Circuit lifted the July 1 deadline."It is plain on the facts of this case that, absent a court order, EPA will not comply. Rather, it will continue to look to bury the true risks of its policies to families and local communities," the petition says.

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The EPA Could Soon Formally Propose Repealing Obama's Key Climate Change Regulation

Reuters

Published: October 4, 2017

The U.S. Environmental Protection Agency will propose repealing the Clean Power Plan—the Obama administration's centerpiece regulation to fight climate change—and plans to solicit input on a rule to replace it, according to an EPA document seen by Reuters.

The decision marks the agency's first formal step to sweep away the rule intended to cut carbon emissions from power plants, after President Donald Trump signed an executive order in March launching the EPA's review.

The Republican president has expressed doubts about the science of climate change and has blamed former Democratic President Barack Obama's efforts to cut carbon emissions for hurting the coal mining and oil drilling industries.

The Clean Power Plan, or CPP, was challenged in court by 27 states after Obama's administration launched it in 2015. It is currently suspended by the D.C. Circuit Court of Appeals, which set a deadline of Friday for a status report from the EPA on how it plans to proceed.

The EPA document, distributed to members of the agency's Regulatory Steering Committee, said the EPA "is issuing a proposal to repeal the rule."

The agency now intends to issue what it calls an Advanced Notice of Proposed Rulemaking to solicit input as it considers "developing a rule similarly intended to reduce CO2 emissions from existing fossil fuel electric utility generating units."

The document did not provide any details of the potential new rule.

The EPA did not immediately respond to a request for comment.

The CPP was designed to lower carbon emissions from existing U.S. power plants by 2030 to 32% below 2005 levels.

It was seen as the main tool for the United States to meet emissions cuts it promised in the Paris Climate Agreement, a global pact to fight climate change.

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Pruitt is poised to kill the climate rule. What's next?

Climatewire
By: Zack Colman

Published: October 4, 2017

When Scott Pruitt moves to repeal the regulation governing power plant emissions that he's spent years trying to defeat, his advocates and detractors alike know it may well be the finishing touch on his first act as U.S. EPA administrator.

What comes next is where the drama begins. The forthcoming regulation could be a warmup for the finale — an airing of climate science that either by design or inadvertently shakes public confidence in what scientists understand about how we're heating the planet.

"There's the reality, and then there's what they might attempt to do," said Rachel Cleetus, lead economist and climate policy manager with the Union of Concerned Scientists. "There's no question that he's trying to make mischief here and looking for any avenue possible to try to undermine those authorities EPA has."

This much is known: As soon as this week, Pruitt will order his agency to begin working on a regulation to replace the Clean Power Plan, the carbon rule issued by President Obama that aims to cut electricity-sector emissions 32 percent below 2005 levels by 2030 (*Climatewire*, Sept. 27).

Some in conservative circles — including fringe players whom President Trump's insurgent presidency has elevated to new prominence — are dismayed that traditional power players like the U.S. Chamber of Commerce appear poised to get their way in asking for a carbon rule to ensure regulatory certainty.

Those on the far right want the rule decimated, not replaced with a weaker one. They want Pruitt to load the harpoon to take down their white whale — the endangerment finding. That finding, which says human-caused greenhouse gas emissions imperil public health, underpins climate regulation.

That Pruitt, who has openly questioned whether EPA has the right "tools" to address greenhouse gas emissions, might offer a scaled-back carbon regulation doesn't mean he's dropping loftier pursuits on climate science and deregulation, observers said.

"Moving forward with a [Clean Power Plan] rewrite does not necessarily mean the administration intends to abandon a review of the endangerment finding. The CPP is an active regulation that must be dealt with now and largely, unfortunately, through the framework established by the previous administration," Tom Pyle, president of the Institute for Energy Research, said in an email. "It will take time for the Trump administration to change the way the federal government handles greenhouse gas regulation. In the interim, they can't just put everything on hold."

But Pruitt has never publicly said he'd take the endangerment finding to task, which many on the political right and left agree would be almost impossible to overturn given the body of scientific evidence supporting it.

Pruitt has, however, flirted with challenging climate science through a "red team, blue team" exercise to test its assumptions. It's a card he may play even as his agency devotes resources to writing new power plant carbon regulations.

With EPA homing in on a power plant regulation, some are increasingly wondering what shape a red team, blue team exercise will take and what purpose it will ultimately serve. But even some of the concept's supporters are openly questioning how aggressively the administration will pursue the suggestion.

"My answer is a question: why have we heard so little about the red team/blue team issue from the Administration recently?" Pat Michaels, director of the Center for the Study of Science at the Cato Institute, said in an email.

It's not necessarily a debate that industry or some Republicans want. One industry lawyer called it a distraction designed to let skeptical ideologues feel they've won a battle without actually resulting in substantive policy change.

Pruitt, a former attorney general of Oklahoma, understands that the preservation of the endangerment finding means EPA needs to take some sort of action, Pyle said. But that doesn't preclude Pruitt from challenging the climate regulatory system in the future, he said.

The red team, blue team debate is one way of addressing the climate architecture, Pyle said. He noted it could go beyond the endangerment finding by investigating things like the social cost of carbon, an economic tool used to assign a monetary value to the benefits of reducing carbon emissions.

"It may help build a case to take up the endangerment finding and reframe the social cost of carbon calculations or it may turn out to increase public support for federal greenhouse gas regulations," Pyle said. "We will have to see how it turns out."

Joseph Majkut, climate science director at the libertarian Niskanen Center, said he believes a red team debate could sharpen assumptions and challenge observations that the scientific community might take for granted. And since the scientific body of evidence will show humans are indeed driving emissions that warm the planet, those who expect a red team to upend the climate science debate are engaging in a losing battle.

"What you can get is a careful reconsideration of previously held views because everyone buys into the process, and when you turn the crank, whatever comes out the other side is trustful," Majkut said.

That is, of course, if Pruitt is interested in having an objective discussion.

"When Pruitt says he wants to 'red team and blue team' the climate science, that's a great example of trying to shift the understanding of the science," Jody Freeman, a White House official under President Obama who now teaches at Harvard Law School, said in a recent interview. "That's very hard to come back from."

Pruitt has taken steps to reshape some of the scientific input EPA receives, Cleetus noted. He's exploring a different composition to the agency's Science Advisory Board. He's also solicited advice from the climate skeptic organization the Heartland Institute on whom to add to an eventual climate red team on climate science (*Climatewire*, Sept. 21).

That he's tapped the Heartland Institute rather than, say, the National Academy of Sciences for the red team, blue team exercise is troubling, Cleetus said. It's similar, she added, to the numerous meetings Pruitt has had with industry officials he regulates compared with almost no environmental groups, his history of suing EPA, and his questioning of whether humans and carbon dioxide are major contributors to climate change.

"So far, we haven't heard anything that this is truly about scientific inquiry," Cleetus said.

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Utilities Coalesce Around Plan for New Carbon Dioxide Standards

Bloomberg BNA

By: Abby Smith

Published: October 4, 2017

Ameren Corp. and Entergy are among the utilities urging the EPA to rewrite its carbon dioxide pollution standards for power plants rather than scrapping the rule outright as the Trump administration repeatedly has suggested.

Rolling back the carbon dioxide standards entirely could lead to even more stringent requirements from the next Democratic administration and could open power plants up to lawsuits from environmental groups, utilities fear. The U.S. Chamber of Commerce also is backing utilities' suggestion to replace the Obama administration's ambitious Clean Power Plan with a narrower rule built around ways individual power plants can reduce their carbon dioxide emissions. But environmental groups are skeptical.

The EPA, as soon as this week, could take its first real step toward rescinding the Clean Power Plan, which may include plans for issuing a replacement rule. If so, industry groups already may have a blueprint for its successor. The EPA did not respond to a request from Bloomberg BNA for a comment.

"One early takeaway is there's been pretty good unanimity on what the replacement should look like" among industry groups, Dan Byers, vice president of policy for the U.S. Chamber of Commerce's Global Energy Institute, told Bloomberg BNA. Byers pointed to a recent white paper presented to EPA and White House officials by a group of utilities known as the Coalition for Innovative Climate Solutions, or CICS.

CICS, which includes Ameren Corp., Entergy Corp, and Salt River Project Agricultural Improvement and Power District, presented its initial suggestions for a replacement framework during a Sept. 14 meeting with EPA and White House officials. Megan Berge, an attorney with Baker Botts LLP that represents the group, told Bloomberg BNA the coalition aims to present an option that is "durable and works for all the parties involved."

Bloomberg BNA reached out to several other electric utilities—including Southern Co., Xcel Energy, Dominion Resources, PPL Electric Corp., and Ameren Corp. The companies either

declined to talk about the rule or did not respond to requests for comment.

Duke Energy declined to comment on the carbon dioxide regulation, but a spokeswoman touted the company's planned $11 billion investment in clean energy and $25 billion spent on grid modernization over the next decade. Duke has cut its carbon dioxide emissions by 30 percent from 2005 levels and plans to reach a 40 percent cut by 2030, she said.

Individual Power Plants Targeted

CICS' plan would base standards on steps individual power plants could take to reduce emissions from their facilities, whereas the Obama administration's Clean Power Plan was broader in scope and included shifting generation from older coal-fired power plants to natural gas and driving new investments in renewable energy. The utilities also say their framework would give states more leeway to determine how to achieve the required pollution reductions.

"The states are then responsible for achieving those goals through means that work with their energy systems—including renewable energy, energy efficiency, plant retirement, carbon trading, or other strategies," Berge said.

EPA Administrator Scott Pruitt offered a plan in 2014 as Oklahoma attorney general that also focused on steps individual power plants could take to curb their emissions. Pruitt was one of the leading opponents of the Clean Power Plan.

Environmental Groups Seek Deeper Reductions

But environmental groups are prepping to staunchly defend the Clean Power Plan, and they are wary of utilities seeking a replacement rule.

"Most power companies, if not all, recognize the deep, long-term cuts that the power sector is going to need to make to address climate change," Kevin Steinberger, a climate policy analyst

with the Natural Resources Defense Council, told Bloomberg BNA. “I think trying to go forward with a rule that really requires minimal emissions reductions reduces the certainty that these power companies would have, rather than increases it.”

Steps to reduce emissions at individual power plants, such as improving heat rate, would be insufficient to satisfy the Clean Air Act, environmental advocates say. Even if the agency pursues that narrow approach, the EPA should be looking at co-firing coal power plants with natural gas or installing systems to capture carbon dioxide emissions.

“If they take the technology out there seriously, there are strategies they could use inside the fence that could end up in the same place as the Clean Power Plan or maybe even more stringent, ” Conrad Schneider, advocacy director at the Clean Air Task Force, told Bloomberg BNA. While environmental advocates favor the Obama administration's broader approach, they argue power plants can do even more to reduce their emissions at their individual facilities.

Schneider also warned that a rule basing standards on minor heat rate improvements could result in an outcome where emissions would increase, because more efficient coal-fired plants would run more often. Such a rule would be blatantly illegal and inconsistent with the air act, he said.

“If anything, trends over the past few years just add to the growing body of evidence and reaffirms EPA's decisions to use the tools that it did” in the Clean Power Plan, Steinberger said.

But the Chamber's Byers said that, for Clean Power Plan supporters, the “shoe's on the other foot this time around.”

Supporters of the rule had argued the Clean Power Plan was flexible, but “in our mind, that wasn't the case,” Byers said, adding that he anticipates any replacement framework would “truly be flexible for states.”

Environmental groups “took up the ‘we like flexibility’ argument the last time,” Byers said. “It will be hard [for them] to say, ‘We have a problem with that now.’”

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EPA launches industry partnership program for regulating

The Hill

By: Timothy Cama

Published: October 3, 2017

The Trump administration wants to work more closely with industrial sectors in formulating the Environmental Protection Agency (EPA) regulations that affect them.

The EPA announced Tuesday that it's reviving a Smart Sectors program to more formally cooperate with industries like oil and natural gas drilling, mining, steelmaking and agriculture for regulating.

It's part of the administration's efforts to be more industry-friendly while still protecting the environment, the EPA said.

"When we consider American business as a partner, as opposed to an adversary, we can achieve better environmental outcomes," EPA head Scott Pruitt said in a statement.

"The Smart Sectors program is designed to effectively engage business partners throughout the regulatory process. The previous administration created a narrative that you can't be pro-business and pro-environment. This program is one of the many ways we can address that false choice and work together to protect the environment," he continued.

"When industries and regulators better understand each other, the economy, public, and the environment all benefit," he said.

The EPA is assigning a handful of employees to act as liaisons to trade associations and companies for the effort.

The initial industries involved will be aerospace, agriculture, automotive, cement and concrete, chemical manufacturing, construction, electronics and technology, forestry and paper products, iron and steel, mining, oil and gas, ports and marine, and utilities and power generation.

No environmental, health or conservation groups are initially included, although the EPA left the door open for inclusion in the future.

Smart Sectors is a reincarnation of efforts under the Clinton and Bush administrations to establish lines of cooperation with industry. The Obama administration stopped the program in 2009.

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Agency hosts industry for 'mutual admiration' talk

Climatewire
By: Robin Bravender and Niina Heikkinen

Published: October 4, 2017

Representatives from a wide range of industries met at U.S. EPA headquarters with Administrator Scott Pruitt's staff yesterday to discuss the Trump administration's regulatory agenda.

The event in the Green Room was headed by Samantha Dravis, Pruitt's top policy aide, as part of

EPA's "Smart Sectors" initiative. The agency is touting the new program as a way to get better input from the industries it regulates. Heavy-hitting trade groups like the U.S. Chamber of Commerce, American Farm Bureau Federation, American Petroleum Institute and National Mining Association were on hand, according to people who attended the meeting.

Pruitt was expected to attend yesterday's meeting, but he traveled to Puerto Rico with President Trump. Dravis led the meeting with EPA's chief of operations, Henry Darwin, according to participants. Several dozen industry representatives attended.

The huddle came as EPA is expected to roll out its plans for repealing the Obama-era Clean Power Plan as early as this week. But climate change rules didn't come up at the meeting, according to those present.

The roughly 90-minute meeting offered few policy details, but industry representatives said afterward that they welcomed the opportunity to tell the administration how EPA regulations impact their sectors.

"It was refreshing," said John McKnight, vice president of government affairs for the National Marine Manufacturers Association.

One industry representative leaving the meeting yesterday called it a "mutual admiration society" between EPA officials and industry that was "loose on details."

EPA billed its new program as a revival of the George W. Bush administration's "Sector Strategies Program." That program came after the Clinton administration launched a "Common Sense Initiative" program in the 1990s. Those programs were aimed at boosting communication between EPA and industry. "Despite [their] successes, Sector Strategies was discontinued in 2009," EPA said in a handout given to industry groups yesterday.

Trade associations welcomed the return of the sector programs, said Paul Noe, vice president of the American Forest & Paper Association. "It was really a kind of informal session, listening and sharing ideas," he said.

One part of the program will involve each industry sector having an "ombudsman" within EPA to serve as a point person with the agency. The program contacts, according to the fact sheet handed out, are EPA employees Daisy Letendre, Nena Shaw, Bob Sachs, Kristinn Sharpe and Elizabeth Corona.

Much of the discussion focused on streamlining the permitting process and creating a more open line of communication with the agency, said Paul Balserak, vice president for environment at the American Iron and Steel Institute.

"We are excited to have someone from EPA who will get to know how steel production works," he said.

Other groups at the meeting included the Alliance of Automobile Manufacturers, National Association of Minority Contractors, National Association of Manufacturers and American Chemistry Council.

EPA did not provide a timeline for future meetings but assured attendees that the agency would work to get the program going as soon as possible, according to Doreen Littlejohn, program director at the National Association of Minority Contractors.

While industry leaders say this forum provides a welcome opportunity to engage in dialogue with regulators, critics of the administration have accused Pruitt of meeting extensively with industry leaders but spending little time with environmental or health-focused groups.

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Fancy dinners, far-flung speeches: Calendars detail EPA chief's close ties to industry

The Washington Post

By: Brady Dennis and Juliet Eilperin

Published: October 3, 2017

During his seven months in office, Environmental Protection Agency Administrator Scott Pruitt has filled his days meeting with executives from many of the companies he regulates, while all but sidestepping environmental and public health groups. But the face time with industry representatives has extended well beyond his Washington office.

On April 26, for example, Pruitt had lunch with executives from Southern, one of the nation's biggest coal-burning utilities. They dined at Equinox, a restaurant near the White House, where the baby-carrot-and-red-beet salad with shrimp runs $28. Later that day, Pruitt met with senior leaders at Alliance Resource Partners, a major coal-mining operation, for a dinner at BLT Prime, a steakhouse in the Trump International Hotel, just across from EPA headquarters.

On other occasions, Pruitt traveled to a Ritz-Carlton golf resort in Naples, Fla., for a National Mining Association meeting; to another golf resort in Arizona to speak at a board meeting for the National Association of Manufacturers; and to a resort in Colorado to speak at an event organized by the conservative Heritage Foundation.

The meals with company executives and other evidence of Pruitt's close ties to industries his agency regulates were laid out in a detailed copy of Pruitt's calendar obtained by the liberal nonprofit group American Oversight. The New York Times on Tuesday reported details from American Oversight's Freedom of Information Act request.

The insights into Pruitt's previously undisclosed meetings add to an already familiar story of how he has spent his time since becoming administrator in February. While EPA leaders traditionally talk with a broad array of stakeholders, Pruitt has overwhelmingly leaned toward meetings with corporate executives in industries regulated by the EPA, and in multiple cases he has quickly ruled in their favor on a range of issues. A more limited version of Pruitt's schedule from April to September, obtained and reported last month by The Washington Post, showed that he often met with executives from the automobile, mining and fossil fuel industries while only

rarely making time for environmental or public health groups.

On the morning of May 1, for example, Pruitt met at EPA headquarters with the Pebble Limited Partnership. In 2014, citing concerns over the risk of contamination to a valuable sockeye-salmon run, the agency had blocked the Canadian company from building a massive gold, copper and molybdenum mine in Alaska's Bristol Bay watershed.

Hours after that first meeting, Pruitt met with Sen. Lisa Murkowski (R-Alaska), who had opposed the Obama administration's decision. Less than two weeks later, the EPA struck a legal settlement with the partnership that cleared the way for it to apply for federal permits for the operation.

In June, Pruitt met at EPA headquarters with representatives from Fitzgerald Truck Sales, the nation's largest manufacturer of commercial truck "gliders" — truck bodies without an engine or transmission. Later in the summer, he announced that he would revisit an October 2016 decision to apply greenhouse-gas emissions standards for heavy-duty trucks to trailers and gliders. The decision was because of "the significant issues" raised by those in the industry, he said.

The latest calendars show other meetings with industry executives, many of whom have regulatory issues, involving large sums of money in potential costs, before the agency. They include representatives from Shell and chemical maker Chemours and lobbyists from the chemical industry, the egg-producers lobby and the farm bureau.

In an email Tuesday, EPA strategic-communications adviser Jahan Wilcox detailed a long list of "environmental, consumer protection and public health groups that the EPA has met with," though it appears that most of the meetings involved officials other than Pruitt. The broader list provided by the EPA included the Nature Conservancy, the Audubon Society, the American Lung Association and the National Environmental Health Association.

"The truth is: EPA has met with over 25 consumer protection, public health and environmental groups," Wilcox said in the email. "Additionally, Administrator Pruitt has been praised by the Galveston Bay Foundation and Texas Health and Environment Alliance for his work on cleaning-up toxic Superfund sites."

During his first six months in office, according to public schedules, Pruitt himself met with representatives from three environmental and public health organizations: the American Academy of Pediatrics, Trout Unlimited and the Center for Climate and Energy Solutions.

Agency officials noted that Pruitt's predecessor, Gina McCarthy, said in January that she regretted that she and her deputies hadn't convinced rural Americans that the agency was on their side. The officials also said that McCarthy met with a disproportionate number of Democratic officials and environmental activists as the Obama administration was crafting regulations aimed at curbing greenhouse-gas emissions and combating climate change.

EPA calendars show that McCarthy spent a large chunk of her time meeting with such groups, particularly throughout 2014. But she also met with a number of industry-backed interest groups, such as the American Gas Association, the Edison Electric Institute and the National Pork Producers Council.

In some cases, the just-released Pruitt calendar records provide new information on events that were vaguely worded in the previous public schedule. On May 11, according to the version released last month, Pruitt attended a "speaking engagement" in Colorado Springs. The new document shows that he spoke at the "Resource Bank" meeting of the Heritage Foundation, the conservative think tank. It also shows that since Pruitt was "invited to speak and present information on behalf of the agency," his "acceptance of free attendance and any meals" at the event did not warrant financial disclosure.

Travel vouchers obtained by the Climate Investigations Center, an environmental advocacy group, said that that Heritage "will be paying for the Administrator's lodging" at that conference.

Even the revised schedule, however, does not provide the full details of Pruitt's activities. For example, the calendar shows that Pruitt attended "Earth Day Events" in Dallas on April 22 and that afterward he flew to Tulsa. But EPA travel vouchers show that Pruitt's travel registry for that day indicate that he was to be in "Tulsa to conduct meetings in the state and to serve as a keynote speaker for ALEC event." ALEC refers to the American Legislative Exchange Council, a state-based conservative group funded by a range of corporations and conservative activists.

"The EPA has tried very hard to keep Pruitt's actual work quiet," Climate Investigations Center Director Kert Davies said in an email. "It took a court order to get the details we learned today. . . . For Pruitt, it's the same as it ever was, a lack of transparency and far too cozy connections with the industries he is supposed to be regulating."

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EPA's Scott Pruitt Spends Much of His Time With Executives From Industries He Regulates

New York Magazine

By: Margaret Hartmann

Published: October 4, 2017

Cabinet officials probably hoped that the resignation of Health and Human Services Secretary Tom Price on Friday would end the scandal over how they're using government resources. But a new report from the New York *Times* sheds some light on the meetings that have Environmental Protection Agency Administrator Scott Pruitt flying around the country, and whom he might be chatting with in the $25,000 soundproof phone booth he had installed in his office.

A 320-page rundown of Pruitt's schedule during his first four months in office, which was unearthed via a records request from the liberal nonprofit American Oversight, reveals that Pruitt spends most of his time meeting with industry executives and lobbyists, but rarely sits down with environmental groups, consumer advocates, or public-health advocates. Per the *Times*:

In just the first 15 days of May, Mr. Pruitt met with the chief executive of the Chemours Company, a leading chemical maker, as well as three chemical lobbying groups; the egg producers lobby; the president of Shell Oil Company; the chief executive of Southern Company; lobbyists for the farm bureau, the toy association and a cement association; the president of a truck equipment manufacturer seeking to roll back emissions regulations for trucks; and the president of the Independent Petroleum Association of America.

The agency defended Pruitt's lopsided schedule in a statement, saying, "As EPA has been the poster child for regulatory overreach, the agency is now meeting with those ignored by the Obama administration." EPA spokeswoman Liz Bowman added that people in the agency had met with more than two dozen health and environmental groups in recent months — but she would not say which officials talked with them.

The paper examined the schedule of Pruitt's predecessor, Gina McCarthy, and it did show some political bias. The Obama appointee held far more meetings with Democratic lawmakers and environmental groups, but she met with industry representatives as well. She also had many more meetings with other government officials to discuss federal policies and programs.

The schedule also raises more questions about taxpayer-funded travel. It was reported last week that Pruitt spent $58,219.19 in taxpayer funds on four military and private flights between February and August, which seems minor compared to Price's 24-plus private charter flights. But Pruitt had a curious number of trips that kept him in his home state of Oklahoma for long weekends, though he only had a small bit of business. For example:

A trip to Oklahoma on May 5, which cost $1,043, was justified by the E.P.A. as an "informational meeting." It consisted of a one-hour sit-down that Friday with Sam Wade, the chief executive of the National Rural Water Association, then a return flight to Washington the following Monday.

The EPA inspector general is already looking into "the frequency, cost and extent of the administrator's travel that included trips to Oklahoma" after receiving a hotline complaint. But somehow we doubt anyone in Trump's cabinet is going to get in trouble for preferring to spend the weekend at their properties outside of D.C.

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6 big climate meetings on Pruitt's calendar

Climatewire

By: Robin Bravender

Published: October 4, 2017

In late April, the Trump administration assembled top officials on both sides of the feud over whether to exit the Paris climate agreement.

On the invite list: Ivanka Trump, Jared Kushner, Steve Bannon, U.S. EPA boss Scott Pruitt, Interior Secretary Ryan Zinke, Energy Secretary Rick Perry, Secretary of State Rex Tillerson, White House energy adviser Mike Catanzaro and others. Those who supported staying in the Paris deal lost, of course, when President Trump announced in early June that the United States would leave it.

It's been known that heavy hitters on Trump's team had met to hash out whether to quit the climate deal, but new details have emerged from Pruitt's formal schedule. The calendar — made public yesterday by the liberal watchdog group American Oversight — offers a behind-the-scenes look at the administration's early moves on climate change. It gives insight about who weighed into big decisions like Paris, offers a glimpse of who's talking to Pruitt about climate change rules, and reveals members of the administrator's inner circle.

Here's a look at some of the big meetings on climate change that Pruitt has had since taking office:

The Paris meeting

On April 27, the White House National Economic Council sent out an invitation rescheduling a "principals meeting on the Paris Agreement," according to Pruitt's schedule.

The hourlong event was slated to include the following people (with "no plus ones or proxies allowed"): Tillerson, Treasury Secretary Steven Mnuchin, Defense Secretary James Mattis, Commerce Secretary Wilbur Ross, Perry, Zinke, Pruitt, White House budget director Mick Mulvaney, national security advisor H.R. McMaster, Trump's then-chief of staff Reince Priebus,

Ivanka Trump, Kushner and then-White House senior counselor Bannon.

Also on the list: White House deputy chief of staff Rick Dearborn; senior policy adviser Stephen Miller; deputy national security adviser Dina Powell; National Economic Council Director Gary Cohn; director of legislative affairs Marc Short; staff secretary Rob Porter; deputy NEC director Jeremy Katz; Catanzaro; international energy and environment aide George David Banks; Josh Pitcock, then-chief of staff to Vice President Mike Pence; director of the Domestic Policy Council Andrew Bremberg; White House counsel Don McGahn; and then-spokesman Sean Spicer.

On one side of the question were policy experts like Cohn and Banks, who cautioned that a departure from the globally popular deal could complicate Trump's efforts on trade and security issues. They appeared to have been supported by chief adviser and Trump son-in-law Kushner along with Tillerson.

In the other corner were campaign die-hards like chief strategist Bannon and Pruitt — who helped push the president to exit (*Climatewire*, April 18).

Paris prep

Ahead of the April gathering, Pruitt and his staff huddled for a "Paris meeting prep," according to his calendar.

The hourlong meeting scheduled in Pruitt's office identifies which staffers Pruitt is relying on for climate policy advice.

On the guest list were Samantha Dravis, who heads EPA's policy shop; chief of staff Ryan Jackson; senior policy adviser Mandy Gunasekara; Brittany Bolen, deputy associate administrator in the policy office; and Justin Schwab, deputy general counsel, who is helping to repeal the Obama-era Clean Power Plan climate rule.

Pruitt discussed Paris again with Jackson and Dravis on May 16, according to his schedule. That meeting was titled "Prep for White House Paris meeting."

'Climate agenda' lunch with Stephen Miller

On March 17, Pruitt had lunch with Trump's senior policy adviser, Miller, according to his schedule.

The topic: "Climate agenda." The lunch was slated for White House Executive Dining Room 2. Also scheduled to attend were Michelle Hale from EPA and White House staffers McLaurine Klingler and Robert Gabriel.

Pruitt later met with White House aide Catanzaro for lunch on April 7, along with Dravis and Gunasekara.

Thanks for rolling back the Clean Power Plan

Pruitt met with representatives from the North Dakota Farm Bureau and the North Dakota Association of Rural Electric Cooperatives on April 25 to discuss rule rollbacks, according to his schedule.

The purpose of the meeting was for the industries to "thank" Pruitt for "his rollback of all of the harmful regulations these last eight years," including the Clean Power Plan, the social cost of carbon and other Obama-era climate policies.

Among those at the meeting were Rep. Kevin Cramer (R-N.D.) and state industry representatives.

On May 18, Pruitt participated in a conference call with state-based groups including think tanks, legislators and energy executives to talk about changes to EPA's policies.

"Many people on this call were leading the Clean Power Plan push-back in their state and are advocates for devolving decision making to the local level," according to Pruitt's calendar.

Sit-downs with air, legal nominees

On April 6, Pruitt sat down with William Wehrum, a former EPA official under George W. Bush.

Wehrum was nominated to lead EPA's air office in September. If confirmed, Wehrum will play a key role in helping the Trump administration roll back Obama-era climate and air policies, including the Clean Power Plan.

On May 2, Pruitt met with Matt Leopold, who was nominated in September to be EPA's general counsel.

Red-team talk

Pruitt met with former Obama administration Energy Department official Steven Koonin on April 28, according to his calendar.

They discussed the idea of launching a so-called red team aimed at poking holes in mainstream climate science, Pruitt told Reuters in a July interview.

"Steve and I were meeting about some other things, and we didn't really focus on that, but I took

the opportunity to talk to him about it," Pruitt told Reuters.

Koonin, who is rumored to be in the running to lead such an operation for the Trump team, told E&E News in August that he had discussed the idea with administration officials but declined to comment on whether he was in talks about running the exercise. He said he'd consider it if certain conditions were met (*Climatewire*, Aug. 7).

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EPA's big shift: Will Scott Pruitt fundamentally change environmental protection?

The Christian Science Monitor

By: Amanda Paulson

Published: October 3, 2017

In a Trump cabinet filled with controversial appointments, one of the most polarizing is the administrator of the Environmental Protection Agency: Scott Pruitt.

To fans, Mr. Pruitt is a champion of industry who can undo regulatory overreach by the EPA. But for critics, Pruitt – a climate-change skeptic who in the past has been part of 14 lawsuits against the agency he now leads – embodies the idea of the fox guarding the henhouse.

The direction of the EPA typically ebbs and flows with the shifting political tides in Washington. So a shift away from the regulation-heavy focus under the Obama administration would have been expected regardless of whom President Trump installed at the helm of the agency. But Pruitt appears to be initiating a more dramatic overhaul of the agency than the typical course correction seen with changes in presidential administrations, historians say.

What his ultimate impact will be, however, remains an open question.

For one thing, Pruitt has already run up against bureaucratic and legal limits to some of his attempted rollbacks of Obama-era regulations, and it's become clear that many of his stated goals may be harder to put into motion than he thought. But for many, including a number of career staffers who have previously weathered changes in leadership as a matter of course, the steady trickle of small changes that he has been able to enact amount to a major shift for the agency.

'A thousand attacks'

Compared with the agency under former President Barack Obama, when there was a strong focus on strengthening regulations to incorporate scientific advances, particularly research about pollutants and climate change, the shift in direction under Pruitt's EPA is a stark one. It has more in common, say historians, with the EPA in the first couple years of former President Ronald Reagan, under Anne Gorsuch (the mother of Mr. Trump's Supreme Court appointee Neil Gorsuch). That two-year period was marked by budget cuts and a relaxation of enforcement and regulations that ultimately ended in scandal.

"They have built on the Reagan-Gorsuch strategy. I wouldn't be surprised if they kind of studied that," says Christopher Sellers, an environmental historian at Stony Brook University in New York.

In the first 200 days of Trump's presidency, Pruitt has asked for a 31 percent budget reduction – which Congress rejected – and has sought to undo many environmental rules put in place during Mr. Obama's administration.

Many of those moves have flown relatively under the radar compared with the massive media attention given to Trump's planned withdrawal from the Paris climate agreement. But taken together – along with proposed budget cuts or lack of rule enforcement – these incremental changes could have an even greater impact.

"It's a thousand attacks," says Scott Slesinger, legislative director for the Natural Resources Defense Council, an environmental nonprofit based in New York. "On everything [Pruitt] does, he's trying to weaken environmental enforcement, weaken environmental protections, and let industry polluters off the hook."

To deregulation and states rights advocates, meanwhile, Pruitt's efforts are in keeping with Trump's campaign promises to scale back government overreach and industry-stifling environmental regulation.

"It's necessary and a lot more than necessary," says Steven Milloy, a member of Trump's EPA transition team and author of "Scare Pollution: Why and How to Fix the EPA." "We've had 45 years of bad science, overregulation, and tyranny by the EPA." Mr. Milloy argues that many of the regulations are based on biased science and aren't necessary for public health in the ways proponents claim.

Many of the proposed rollbacks can seem dry and technical, and they may not mean much to the average voter. But even small changes to rules can have a big effect on clean air and water and public health, advocates say, pointing to rules governing coal ash management, the listing of various toxic chemicals, risk management plans at industrial facilities, and methane emissions from oil and gas facilities. The targets that have received the most attention, like the Obama-era Clean Water Rule and Clean Power Plan still haven't hit the radar screen of most voters.

The devil is in the details

Pruitt's position on Obama's signature environmental regulations has always been clear. As Oklahoma attorney general, he was part of lawsuits against the EPA involving the Clean Water Rule, the methane rule, and the Clean Power Plan. But actually undoing those rules is difficult, legal experts note. If adopting a rule is a time-consuming, bureaucratic process, involving detailed fact-finding, cost-benefit analysis, and comment periods, undoing those rules is also cumbersome. Most notably, a new rule – backed by evidence – must replace the old one.

Likewise, removing the teeth from adopted rules has proven difficult. A federal appeals court ruled in July that Pruitt's decision not to enforce parts of the methane emissions rule represented an "unreasonable" delay and declared that as long as the rule is on the books the agency must

enforce it.

That setback may have discouraged Pruitt from announcing similar delays in other rules. Observers say that he is likely to have an easier time delaying implementation of controversial rules like the Clean Power Plan or the Clean Water Rule, however, which were already under court stays.

"Some of the things he'll try to do he won't be able to get through the courts, but some he will. It will be a mixed bag," says Daniel Farber, an environmental law professor at the University of California, Berkeley and the co-author of a recent report looking at the potential consequences of the Trump administration for the environment.

Professor Farber and others say that the most significant changes may come through less direct means: cutting the budget, and therefore the agency's capacity; reducing scientific research and monitoring; and (unofficially) doing less enforcement of existing regulations.

"The courts won't intervene on that," says Farber. The EPA under former President George W. Bush and Mr. Reagan also tried for regulatory rollback, he notes, somewhat less aggressively than now, and met with legal obstacles.

"What turned out to be their strongest weapons were budget and enforcement cuts," says Farber.

Brain drain

Perhaps the most significant sign of the depth of changes taking place under Pruitt is the departure of career employees from the agency.

"A lot of people who are really good are leaving the EPA. The best people will find other things people want them to do, and the people who aren't as good are stuck," says Steven Cohen, executive director of the Earth Institute at Columbia University in New York and a former EPA

employee and consultant. "That's a typical human resources story in these kinds of conditions."

Researchers, including Professor Sellers of Stony Brook University, conducted dozens of interviews of current and former EPA employees for The EPA Under Siege, a report released this summer that examines the agency both historically and in the Trump era. Excerpts of those interviews, in an appendix, reveal a demoralized staff that describes feeling at war with the new political appointees. Along with the effort to undo regulations, the interviewees expressed dismay over what they view as disregard for science at the current EPA, new protocols that favor secrecy over transparency, and the decision to use part of the scant budget for a security team for Pruitt, not something that prior administrators have had. (The EPA did not respond to requests for comment from the Monitor.)

A similar scenario played out during the Gorsuch years as well, when EPA staff was reduced by 26 percent and its budget by 21 percent, according to the report.

Sellers sees a prime distinction between the two eras, however. In the Gorsuch era, Democrats had control of both houses and were a prime driver of the hearings that eventually uncovered scandals with how the EPA had mishandled the toxic waste Superfund and led to a broad turnover there. Today, Republicans have control of both houses. Congress's decision to block Pruitt's proposed budget cuts suggests that legislators may not necessarily be ready to give him carte blanche to shape the EPA, however.

One area where both critics and proponents of Pruitt's EPA agenda can agree: States play an increasingly important role in most environmental monitoring, clean-up, and regulation these days. Trump fans like Milloy see this as yet another argument for why the EPA has outgrown its usefulness and should be far smaller, playing more of a coordination and advisory role.

In 1970, not many states had a good environmental department, says Milloy. Today, that's changed. "Washington doesn't need to dictate solutions to everybody."

But whereas states like New York and California have been growing their governmental agencies and aren't likely to be as affected by a shift in the national EPA, many other states have low capacity for environmental monitoring and enforcing regulations.

"There are places where the impact will be larger than in other places," says the Earth Institute's Mr. Cohen. He wonders if it will take a real disaster – a failure to clean up a spill, or problems from Superfund sites in the wake of flooding like Houston saw – to raise environmental issues to the top of voters' minds.

And he and others worry about the most basic result of Pruitt's ideological shift: the lack of forward movement.

When it comes to environmental laws, "I think we have enough safeguards," says Cohen. "The danger is that instead of advancing as we need to to keep pace with the technologies we're introducing, we'll be running as hard as we can to keep still."

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Gina McCarthy says it's 'not easy' to watch Trump kill off her EPA rules

Washington Examiner

By: John Siciliano

Published: October 3, 2017

Former President Barack Obama's Environmental Protection Agency chief said she is having a hard time watching the Trump administration repeal the regulations she helped spearhead.

"It's not easy for me to watch, but I'm not despairing in any way," said Gina McCarthy in an interview with High Country News published Monday. She is taking refuge in the idea that states will pick up the slack, especially on climate change.

"When the U.S. government in Washington has fallen asleep, the rest of the country tends to wake up big time," McCarthy said. She hasn't spoken much to the media since she departed the EPA in January.

Even though she is optimistic on climate, she said the Trump administration's approach to tearing down Obama's entire environmental record is a bit hamfisted, suggesting it should be more selective in its approach. It's the most discouraging part of watching Trump deregulate the agency, she said.

"Well, at this point, I'd say that the current administration is really relooking and reconsidering just about every decision that's been made under the Obama administration, and I think they've made it clear that they want to rethink all the climate efforts," she said.

But they are also "going after" clean water regulations such as those meant to reduce toxic pollutants from entering streams from power plants and others such as the Waters of the U.S. rule, she said.

"It's pretty clear they haven't really been selective in their thinking, and perhaps that's the most discouraging thing," McCarthy said.

The WOTUS rule expanded the jurisdiction of the EPA and the Army Corps of Engineers over everything from rivers to drainage ditches, which federal appeals courts said constituted federal overreach.

The EPA last month took actions to begin rescinding rules limit discharges from power plants.

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Interior, EPA chiefs: No plans to pay back charter flights

Associated Press

By: Matthew Daly

Published: October 4, 2017

Two of President Donald Trump's Cabinet members say they do not plan to reimburse the government for charter flights costing tens of thousands of dollars.

Representatives of Interior Secretary Ryan Zinke and Environmental Protection Agency chief Scott Pruitt say the trips were pre-approved by ethics officials in their respective agencies and were part of their official duties.

Inspectors general for the two agencies have opened inquiries into the taxpayer-funded travel.

Zinke said he's taken three charter flights while in office, including a $12,375 late-night trip from Las Vegas to his home state of Montana in June. Zinke said no commercial flight was available when he planned to fly for a speech to Western governors.

Zinke also traveled by private plane in Alaska in May and to the U.S. Virgin Islands in March. The two trips cost a total of $7,000, the Interior Department said.

The EPA said four non-commercial flights taken by Pruitt were approved by ethics lawyers. Documents show Pruitt and his staff chartered a private plane for an Aug. 4 trip from Denver to Durango, Colorado, to visit the Gold King Mine, site of a spill last year. The administrator also took three flights on government-owned planes to New York, North Dakota and a roundtrip between airports in Pruitt's native Oklahoma.

Letters released by EPA show the flights cost a total of $58,000 and were approved by the agency's general counsel's office.

Heather Swift, a spokeswoman for Zinke, said Tuesday all of Zinke's travel— including a military flight with Agriculture Secretary Sonny Perdue to view wildfires in Montana in August — were approved by career officials at the department.

"As with previous (Interior) secretaries, Secretary Zinke's travel is paid for by the government," Swift said.

"If a reimbursement was necessary for official government travel, the EPA's Ethics Office would have told us during the approval process and we would've acted accordingly," said EPA spokeswoman Liz Bowman.

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Oil lawyer gets waiver from Trump ethics pledge

E&E News

By: Kevin Bogardus

Published: October 3, 2017

Erik Baptist, formerly a top oil and gas industry attorney who is now working at U.S. EPA, has secured a limited waiver from President Trump's ethics pledge.

In a memo posted online by the Office of Government Ethics, White House Counsel Don McGahn said he waived restrictions on former lobbyists joining the administration for Baptist.

McGahn issued the waiver so Baptist could participate in EPA discussions regarding the renewable fuel standard, which the agency oversees.

"The facts that Mr. Baptist had not been a registered lobbyist for fourteen months prior to his appointment and signing the Ethics Pledge and that the activities that triggered his obligation to register as a lobbyist were limited, coupled with his deep understanding of the RFS program and the regulated industry, make him an ideal person to assist the Administrator and his senior leadership team to make EPA and its renewable fuel programs more efficient and effective," McGahn said in his memo, dated Aug. 25.

Baptist was senior counsel for the American Petroleum Institute before joining EPA earlier this year as the agency's senior deputy general counsel (*E&E News PM*, June 27).

At API, Baptist was registered to lobby for four years up until 2016. Disclosure records show he was one of the oil and gas group's several lobbyists working on legislation dealing with the RFS, including bills that would eliminate the program.

In his memo, McGahn said he authorized Baptist "to participate personally and substantially in matters regarding" the RFS program and that he understood that Baptist will otherwise fully comply with the president's ethics pledge.

Liz Bowman, an EPA spokeswoman, told E&E News, "Erik has received his ethics training, knows his responsibilities and is committed to serving professionally."

Ethanol supporters have grown frustrated with EPA over its handling of the RFS under the Trump administration. The agency has recently hinted it may reduce the program's required volumes for some biofuels next year and in 2019 (*E&E News PM*, Sept. 27).

Other political appointees at EPA have also avoided being held to Trump's ethics pledge.

Nancy Beck, the deputy assistant administrator in EPA's chemicals office, joined the agency not as a political appointee but in an "Administratively Determined" position.

Consequently, Beck, who used to work for the American Chemistry Council, did not have to sign the pledge, according to ethics documents (*Greenwire*, Aug. 8).

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Undermining the Rule of Law at the E.P.A.

The New York Times

By: David M. Uhlmann

Published: October 4, 2017

In the more than seven months since he became administrator of the Environmental Protection Agency, Scott Pruitt has been on a reckless mission to dismantle public health safeguards and environmental protections. Mr. Pruitt's E.P.A. wants to postpone or roll back dozens of rules that save lives and provide clean air and water, including efforts by the Obama administration to combat climate change and to protect rivers and streams from pollution.

Last week brought more bad news: Mr. Pruitt is proposing to end a decades-long agreement with the Justice Department that funds the E.P.A.'s lawsuits against polluters responsible for creating hazardous waste sites. Neither Congress nor the courts will have the final say. The decision rests with the Trump administration.

Since the Reagan administration, the E.P.A. has reimbursed the Justice Department for the cost of suing companies as part of the Superfund hazardous waste site cleanup program. In communities like the Love Canal neighborhood in Niagara Falls, N.Y., and Times Beach, Mo., the Justice Department sued polluters to force them to pay the cost of relocating residents. More recently, the E.P.A. covered the upfront costs of suing the W. R. Grace chemical conglomerate in the small town of Libby, Mont., where hundreds have died from asbestos poisoning, and compelling General Electric to clean up decades of PCB pollution that ravaged the Hudson River.

But in its budget proposal, the E.P.A. said it no longer intended to reimburse the Justice Department for Superfund litigation costs.

These lawsuits are expensive, with Justice Department lawyers doing battle, often for years, with the largest law firms in America. But the return on the agency's investment is substantial. The Justice Department recovers hundreds of millions of dollars every year in cleanup costs to replenish the Superfund program's coffers, which enables the E.P.A. to conduct more hazardous waste cleanups, including emergency responses to chemical releases like those that occurred after Hurricane Harvey.

For the Environment and Natural Resources Division at the Justice Department, which represents the E.P.A. and other federal agencies in court, funding from the E.P.A. is essential. In its budget proposal for 2018, the Justice Department indicated that it expected to receive approximately $25 million from the E.P.A., enough to pay for 69 lawyers as well as support staff, nearly 20 percent of the division.

If the E.P.A. stopped paying for Superfund work, significant layoffs would be likely at the Justice Department. But that would be just the beginning. More than half of the Environment Division's work is defensive, meaning it represents the E.P.A. and other agencies in lawsuits brought by regulated industries, environmental groups and state attorneys general. That work is considered nondiscretionary — the Justice Department must represent the government when federal agencies like the E.P.A. are defendants — so the spending cuts and layoffs would have to come from elsewhere in the Environment Division.

As a result, there could be cuts exceeding 40 percent from the Environment Division offices that prosecute environmental crimes like the Volkswagen emissions cheating scandal, seek civil penalties and natural resource damages in cases like the Deepwater Horizon oil spill in the Gulf of Mexico, and sue polluters that are responsible for Superfund hazardous waste sites.

Mr. Pruitt's proposal is a breathtakingly bad idea, giving polluters license to do their dirty work with less fear of punishment and a greater ability to outlast an understaffed Justice Department in court. The victims would be ordinary Americans, many of them poor and minorities, who often live closest to where environmental violations occur and where the worst Superfund sites are located.

Yet blocking Mr. Pruitt will depend on opposition from Attorney General Jeff Sessions and intervention by the White House, which so far has shown no inclination to curtail the E.P.A. administrator's anti-environmental zeal.

For decades, Republican and Democratic administrations alike have prosecuted environmental crimes and sued polluters to recover the cost of cleaning up their messes. Vigorous enforcement of the environmental laws has been nonpartisan, because it protects our communities from harmful pollution and ensures that polluters don't get a free ride at the expense of taxpayers.

Prosecuting polluters also makes sense for American businesses, most of which are committed to meeting their legal obligations and conducting their affairs in a responsible, ethical manner. Why should good companies that invest in environmental compliance be at a competitive disadvantage against the lawbreakers that would be harder to bring to justice under Mr. Pruitt's cynical ploy?

Mr. Pruitt, a former Oklahoma attorney general, claims state governments can fill the void created by a diminished E.P.A. His argument ignores the fact that most states lack the resources to take on big polluters.

Before the E.P.A. was created in 1970, the United States saw what happens when the federal government does not protect our communities from pollution: the Cuyahoga River on fire in Cleveland, a devastating oil spill sullying the beaches in Santa Barbara, Calif., and thousands of drums of hazardous waste, many leaking toxic chemicals, at the Valley of the Drums in Kentucky.

The system of environmental laws in the United States resulted from bipartisan consensus about the need to protect public health and the environment from harmful pollution. Previous E.P.A. administrators, in Republican and Democratic administrations, have supported strong enforcement of those laws, recognizing that laws are only as good as their enforcement.

By weakening E.P.A.'s commitment to bringing polluters to justice, Mr. Pruitt abandons communities scarred by pollution and undermines the rule of law.

David M. Uhlmann is a law professor at the University of Michigan and was chief of the environmental crimes section at the Justice Department from 2000 to 2007.

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EPA is losing sight of its mission to protect Americans

The Hill

By: John O'Grady

Published: October 3, 2017

Hidden deep in EPA's 2018 budget is a little-known plan by EPA Administrator Scott Pruitt to stop paying over $25 million to a Justice Department environmental division for work on cases against polluters that his own agency has asked it to file. This was uncovered by The New York Times Wednesday.

You may not know the name of the Environment and Natural Resources Division (ENRD) of the Justice Department, but you've certainly heard of their work. Lawyers from ENRD filed actions to address wrongdoing in the *Deepwater Horizon, Exxon Valdez* and *Volkswagen* cases and forced many more companies in all 50 states to pay for the damage caused by unlawful pollution.

Because statutes like the Clean Air Act and the Clean Water Act require EPA to request that DOJ lawyers prosecute environmental cases in federal court, ENRD has an important role to play alongside EPA in protecting our natural resources.

If an environmental catastrophe hits your community, you want this small group of expert lawyers to have your back. This must have been how Vice President Mike Pence, an avid fisherman, felt in 1999 (shortly before he was elected to represent the 2nd District in Indiana)

when the largest fish kill in Indiana history wiped out 4.6 million fish in a 57-mile stretch of the White River near his district.

ENRD lawyers, with EPA and the state, filed criminal and civil charges against polluter Guide Corporation, in federal court, leading to a criminal sentence, millions of dollars in fines and a complete restoration of White River fisheries. Today, the White River has completely recovered from the fish kill.

By withholding the more than $25 million in the 2018 budget that ENRD needs to prosecute cases on EPA's behalf, Pruitt is once again acting to undermine his own agency's mission. EPA has funded the Justice Department's ENRD in this way since the Reagan administration. Pruitt's 2018 plan is unprecedented and would eliminate more than 100 staff members in ENRD who work closely with EPA enforcement staff to protect the American people.

It's hard to know nowadays what is included in EPA's "back to basics" mission articulated by Pruitt on EPA's website: "We can and we will achieve clean air and clean water and we will also have strong economic growth and job creation at the same time."

Pruitt has defended the Trump administration's proposed 31percent cut to EPA's budget, telling Congress that he feels the EPA can "fulfill the mission of our agency with a trim budget." Included in that cut is a reduction to EPA's enforcement staff of 25 percent. But Pruitt must know that by secretly cutting ENRD and reducing EPA enforcement staff, EPA cannot possibly accomplish even the "back to basics" mission Pruitt has proposed.

If stopping actual pollution to air and water is not part of EPA's "back to basics" mission, what is?

Without funding for the essential civil servants, biologists, chemists, toxicologists and lawyers who enforce our environmental laws established by our Congress, EPA and the Justice Department cannot catch the polluters who threaten our drinking water or put the air we breathe at risk.

We cannot afford for this workforce to be compromised.

Pruitt's plan to cut funding to EPA and ENRD is a plan to help polluters get away with harming the American people in the name of "market certainty". Members of Congress must act to stop the current appropriations bill, so that everyone — like the vice president — can have a healthy river in their backyard.

John O'Grady is president of the American Federation of Government Employees (AFGE) National Council of EPA Locals #238 representing over 9,000 bargaining unit employees at the U.S. EPA nationwide.

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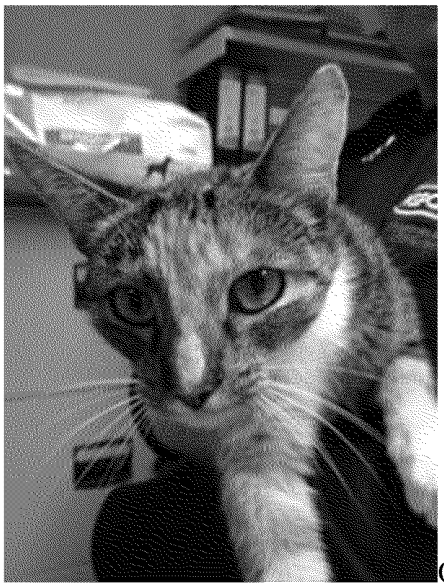
Swedish cat missing for a year returned to owner in England

UPI

By: Daniel Uria

Published: October 3, 2017



Oct. 3 (UPI) -- A cat that was missing for more than a year in England found its way home with the help of social media and the Swedish government.

The Royal Society for the Prevention of Cruelty to Animals Chesterfield and North Derbyshire Branch shared a photo of the Swedish cat that was found wandering the streets of England after being unable to read her microchip.

"We have found her to be micro-chipped however the chip is from Sweden but after making inquiries we have been unable to find information about where she belongs as the chip is not registered on the relevant databases," the shelter wrote two weeks ago.

Desperately searching for a solution to the bizarre problem, the animal society turned to social media in hopes of finding the wayward cat's owner.

"We put the cat onto Facebook and Twitter and asked our community of supporters to help," RSPCA branch manager Rachel Gray said. "The post was shared far and wide and we even had an offer of help via Twitter from the Swedish embassy!"

The social media plea eventually reached the cat's owner, Jessica Vestin, who said the feline's name is "Cookie" and she moved with her from Sweden to England in 2015.

Cookie had been missing for about a year and Vestin had eventually given up hope of ever seeing her pet again.

"I was looking for Cookie for such a long a long time but we could not find her - I felt like giving up," she said. "Then one day, my boyfriend was on his break at work and he was looking on Facebook when he saw a photo of a cat which had been handed in to the RSPCA. He tagged me in it as he thought the cat looked like Cookie."

After confirming the cat in the photo was indeed her long-lost pet, Vestin contacted the society and set up their reunion.

"I was so happy when I realised it was her. We are just so lucky that she was found," Vestin said.

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To: Gibson, Benjamin[gibson.benjamin@epa.gov]; Gray, Stuart[Gray.Stuart@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Perlmutt, Lars[perlmutt.lars@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]; Spangler, Matthew[Spangler.Matthew@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Sutton, Lisa[Sutton.Lisa@epa.gov]; Vetter, Cheryl[Vetter.Cheryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Johnson, Yvonne W
Sent: Thur 7/13/2017 6:17:39 PM
Subject: News Clips – July 13, 2017

News Clips – July 13, 2017

Air Pollution News

□□□□□□□□□ Green groups sue U.S. Environmental Protection Agency over smog rule delay *(Reuters)*

□□□□□□□□□ Ozone Standards Delay Illegal, Advocates Argue in Lawsuit *(BNA)*

□□□□□□□□□ Suit Claims EPA Lacks Authority For Ozone NAAQS Implementation Delay *(Inside EPA)*

□□□□□□□□□ EPA proposes another extension for Ark. on NOx emissions *(Greenwire)*

Oil & Gas

□□□□□□□□□ EPA, Industry Cite Methane NSPS Review, Delay Plans To Back Recall Bid *(Inside EPA)*

Budget & Staffing

□□□□□□□□□ House panel takes first step in cutting $528 million from EPA *(Washington Examiner)*

□□□□□□□□□ Democrats Criticize EPA FY18 Bill Despite Rejection Of Trump Budget Cuts *(Inside EPA)*

□□□□□□□□□ Senate Environment Panel Approves EPA Enforcement Nominee *(BNA)*

□□□□□□□□□ EPA Inhofe Alumni Group Closer to Expanding *(Roll Call)*

□□□□□□□□□ Chaos or conspiracy? Key posts vacant as nominations lag *(Greenwire)*

On the Hill

□□□□□□□□□ After Kemper debacle, senators see promise in CCS bill *(E&E Daily)*

□□□□□□□□□ House Panel Moves to Repress 'Back-Room' Rulemaking *(BNA)*

□□□□□□□□□ Lawmakers approve 'sue-and-settle' bill *(E&E Daily)*

Other News

□□□□□□□□□ Pruitt blasts Europe, Merkel for 'hypocrisy' on climate *(POLITICO)*

□□□□□□□□□ Pruitt Faces FACA Rules In Bid For Climate Debate, Advisory Panel Reforms *(Inside EPA)*

□□□□□□□□□ Scientists see proposed climate debates as a trap *(Climatewire)*

…And in Happier News

□□□□□□□□□ Mystery woman treats 25 firefighters to dinner *(CNN)*

On this day in 1923, the Hollywood Sign is officially dedicated in the hills above Hollywood, Los Angeles. It originally reads "Hollywoodland " but the four last letters are dropped after renovation in 1949.

Green groups sue U.S. Environmental Protection Agency over smog rule delay

Reuters

By: Emily Flitter

Published: July 12, 2017

NEW YORK (Reuters) - Environmental and public health groups asked a U.S. Appeals Court in a lawsuit filed on Wednesday to force the U.S. Environmental Protection Agency to reverse its decision to delay issuing a set of smog cleanup rules.

The groups, including the Natural Resources Defense Council and Earthjustice, argued the agency's June 6 announcement that it would wait to identify areas of the country where smog pollution is especially heavy until it gathered more information and reviewed existing pollution standards was illegal.

At issue in the lawsuit is a provision in the Clean Air Act that requires the EPA to decide what levels of smog pollution are acceptable, then identify parts of the country where pollution exceeds those levels and enforce their cleanup. The agency released standards and designations in 2008 and 2015, and was due to update them this year.

"Simply put, delay of designations delays the stronger pollution controls Congress mandated to protect people in communities with unhealthy air," said the lawsuit, filed in the U.S. Court of Appeals for the District of Columbia Circuit.

Liz Bowman, a spokeswoman for the EPA said the agency had asked lawyers representing the groups in a phone call on Tuesday to delay filing their suit for two weeks. She said the EPA was still working on the designations and its lawyers believed the suit would be unnecessary once the groups saw the results of the agency's work.

Bowman said the groups were reading too much into the delay. "The agency was not going to meet the original deadline for all 50 states," she said. "This administrator doesn't like being outside the bounds of statutory deadlines so he said extend it. We're continuing our work."

The topic has been a recent source of dispute. Environmental groups and representatives of

industries that contribute to smog, like power plants, sparred in court over whether the previous designations were too lax or too strict.

Mustafa Ali, a former assistant associate administrator for environmental justice at the EPA, criticized the delay and said the suit, in which he was not involved, was warranted. If the EPA needed more time to deal with certain states over their designations, the agency could do so without the overall delay, he said.

"You can always work with states that are not moving quickly, you can build some accommodation into the process," he said.

"How long do these communities need to wait? What we're really doing is playing with their lives."

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Ozone Standards Delay Illegal, Advocates Argue in Lawsuit

Bloomberg BNA

By: Andrew Childers

Published: July 13, 2017

Postponing decisions under the EPA's new ozone pollution limits for a year is illegal, a dozen environmental and public health groups said in a lawsuit.

Environmental advocates plan to argue that the Environmental Protection Agency already has the data it needs to decide by Oct. 1 which regions of the country do not meet more stringent ozone requirements set by the Obama administration (*Am. Lung Ass'n v. EPA*, D.C. Cir., No. 17-1172, 7/12/17).

"It's pretty clear they have plenty of data," Ann Weeks, senior counsel at the Clean Air Task Force, told Bloomberg BNA.

The EPA announced in June its plans to delay decisions on which regions of the country fail to meet the national ozone standards, set at 70 parts per billion in 2015. Areas that exceed the standards could be required to impose a variety of pollution control requirements, including potential restrictions on vehicles and industrial facilities, to come back into compliance. It might also slow the ability of companies to secure permits to open or expand industrial facilities in certain regions.

States in 2016 identified regions that were unlikely to meet the 70 ppb standards based on air quality data. Parts of at least 22 states were identified as likely to exceed the ozone limits at that time, according to a Bloomberg BNA survey of state environmental agencies.

The EPA's press office didn't respond to a request for comment.

The EPA had said that it lacks the data necessary to make the determinations. The Clean Air Act allows that sort of delay, but the environmental and health groups said that provision only applies to individual areas and cannot be extended nationwide.

"None of those requirements are applicable here," Weeks said.

Some states had argued that the delay was necessary for the EPA to compile the tools necessary for local air pollution regulators to show they have met the standards.

"For many, an additional year and an additional year of progress under many of the [EPA's pollution regulations]…may be welcomed with open arms," according to Clint Woods, executive director of the Association of Air Pollution Control Agencies, which includes several states critical of the ozone standards.

The advocacy organizations that filed the lawsuit include the American Lung Association and the Sierra Club. The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P. Bloomberg BNA is an affiliate of Bloomberg L.P.

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Suit Claims EPA Lacks Authority For Ozone NAAQS Implementation Delay

Inside EPA

By: Stuart Parker

Published: July 12, 2017

A coalition of environmental groups is suing EPA over its decision to delay by one year implementation of the Obama administration's 2015 rule tightening the ozone national ambient air quality standards (NAAQS), arguing the agency lacks legal authority for the decision and asking an appellate court to immediately block the delay.

The groups filed a July 12 motion for summary vacatur or a stay of EPA's delay decision in the U.S. Court of Appeals for the District of Columbia Circuit. The agency has said it wants to review the 2015 rulemaking that tightened the ozone limit, but environmentalists say this is no legal basis to delay implementation.

The Clean Air Act allows designation delays only on the basis of inadequate information under Clean Air Act 107(d)(1)(B)(i), which addresses the area designation process for NAAQS attainment, but environmentalists say EPA has failed to demonstrate such information is missing, given the voluminous data that states have already provided the agency. As a result, they ask the D.C. Circuit to quickly scrap the agency's implementation delay.

The groups that filed suit include the American Lung Association, American Public Health Association, American Thoracic Society, Clean Air Council, Environmental Defense Fund, National Parks Conservation Association, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club and others.

They challenge EPA's decision to delay by one year designations for which areas are attaining or violating the 2015 ozone NAAQS of 70 parts per billion (ppb). The agency says it needs more time to review data on the ozone limit, and until EPA issues designations it will not trigger a Clean Air Act clock for states to write plans for meeting the standard.

Environmentalists argue that this means public health protections will be unlawfully delayed.

Their suit is the latest in a series of legal challenges environmentalists have filed over Trump EPA efforts to delay implementation of several Obama-era Clean Air Act and Clean Water Act rules.

It follows a successful similar effort by environmentalists in the D.C. Circuit suit *Clean Air Council, et al., v. E. Scott Pruitt, et al.,* to block EPA's administrative stay of rules limiting methane emissions from natural gas and oil drilling. In that case, the court in a July 3 decision voted 2-1 to vacate EPA's stay, agreeing with environmentalists that EPA did not satisfy a test under 307(d)(7)(B) of the Clean Air Act for pausing several of the rule's provisions.

Another pending suit challenges the administration's plan to impose a lengthy delay on implementation of revisions the Obama EPA made to the air law's Risk Management Plan facility safety program.

A third case contests an EPA effort to use water law and Administrative Procedure Act authority to delay a power plant effluent rule, which distinguishes it somewhat from the air cases.

In the new ozone suit, the environmentalists argue that EPA's delay “is clearly unlawful, arbitrary, and dangerous to public health, and particularly given the imminent October 2017 statutory deadline for EPA to complete the designations, summary vacatur is appropriate.” To

support their case, they cite the court's finding in *Clean Air Council* granting vacatur of the administration's stay of the new source performance standards methane rule for new oil and gas drilling.

Ozone Delay

EPA Administrator Scott Pruitt in a June 6 letter to Arizona Gov. Doug Ducey (R) announced the agency will delay designation of areas meeting or violating the 2015 ozone standard by one year, from Oct. 1 this year to Oct. 1, 2018, to "consider completely all designation recommendations provided by state governors," and to "rely fully on the most recent air quality data."

Pruitt also wrote that the "additional time will also provide the Agency time to complete its review of the 2015 ozone NAAQS," which is stricter than the prior 2008 limit of 75 ppb.

Opponents of the tougher NAAQS say it will be unreasonably expensive and burdensome to achieve the standard, particularly as EPA has said it wants to reconsider the 2015 decision.

But environmentalists argue this is not an adequate reason to delay implementation. The Clean Air Act allows designation delays only on the basis of inadequate information under Clean Air Act 107(d)(1)(B)(i), but EPA has failed to show such information is missing, they say.

EPA formally announced the designations delay in a June 28 *Federal Register* notice that cited lacking information to justify the delay, which environmentalists in their motion denounce as a "preemptory action involving no public participation and only cursory explication."

In their filing they say, "The Designations Delay is illegal and irrational. The statutory provision that EPA seized upon as ostensible ground for delaying implementation of the 2015 standards applies only where EPA 'has insufficient information' to promulgate designations for one or more areas."

Yet EPA's *Register* notice "is devoid of any showing that the copious information already before the agency is somehow 'insufficient.' Indeed, EPA did not even attempt such a showing," the groups say.

Instead, they accuse EPA of trying to convert the air law's one-year delay mechanism "into a blanket authorization for delay on a broad mishmash of policy grounds irrelevant to the adequacy of information for designations, such as a desire to revisit the 2015 ozone standards themselves and alleged challenges in complying with the standards."

Although EPA has delayed designation of certain areas before, doing so for the entire country is thought to be unprecedented, and serves as evidence of the arbitrary nature of the decision, environmentalists have told *Inside EPA*.

Should the court opt not to summarily vacate the delay decision, environmentalists ask that the court instead stay EPA's delay pending the court's review of the merits of the agency's action. A stay would be warranted to prevent "irreparable harm" to public health and the environment, they argue.

Earthjustice attorney Seth Johnson, representing several of the petitioners in the suit, in a July 12 statement called EPA's delay "illegal and wrong. It forces the most vulnerable people, like children, people with asthma and the elderly, to continue to suffer from dangerous ozone pollution. The EPA is wrong to put its polluter friends' profits before people's health."

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EPA proposes another extension for Ark. on NOx emissions

Greenwire

By: Sean Reilly

Published: July 12, 2017

U.S. EPA has tentatively agreed to give Arkansas utilities another 18 months to comply with tighter limits on nitrogen oxide emissions at three coal-fired plants in the state.

The proposed extension, set for publication in tomorrow's *Federal Register*, would allow Entergy Corp. and other plant owners until January 2020 to meet the new thresholds, required by a federal haze reduction plan published last September. The original deadline was April 2018; the added extension would come on top of a three-month stay granted by EPA in April.

The proposal follows requests filed late last year by the state, Entergy and other entities asking EPA to administratively reconsider various parts of the plan.

EPA Administrator Scott Pruitt agreed to the requests in April; the agency has now determined that the state and other challengers "raised objections to the NOx compliance timeframes that were impracticable to raise during the comment period and that are of central relevance" to the plan, according to the notice. EPA has scheduled an Aug. 23 public hearing in Little Rock, Ark., on its decision, accompanied by a Sept. 22 deadline for written public comments.

The extension applied to five generating units at the three plants, two of which are run by Entergy and a third co-owned by the Arkansas Electric Cooperative Corp. and a subsidiary of American Electric Power. The Arkansas Department of Environmental Quality could also rework the NOx reduction requirements as part of a broader revision to the federal haze plan, the notice said.

EPA's regional haze program, dating to 1999 in its current form, aims to restore visibility to natural conditions in 156 national parks and wilderness areas by 2064. Under the Obama administration, the agency regularly used the program to impose stricter controls on older coal-fired plants.

Under Pruitt, who previously waged an unsuccessful three-year court battle against a federal haze plan for Oklahoma as the state's attorney general, EPA has so far taken a less aggressive posture.

Legal challenges to the Arkansas plan brought by the state, power producers and environmental groups have been on hold since March after EPA said it was seeking a settlement.

Last month, the two environmental groups, the National Parks Conservation Association and the Sierra Club, asked the 8th U.S. Circuit Court of Appeals to restart proceedings, arguing that there had not been "a good faith effort to resolve the issues in dispute" (*Greenwire*, June 12).

EPA, the state and Entergy have all lined up against that bid. As of this morning, the court had not ruled.

In issuing the plan last year, EPA projected that it would eventually cut yearly releases of NOx and sulfur dioxide by 15,100 tons and 68,500 tons, respectively, and improve visibility in Caney Creek Wilderness and the Upper Buffalo Wilderness, both of which are in Arkansas, as well as the Hercules Glades Wilderness and the Mingo National Wildlife Refuge in Missouri.

Entergy, however, contends that compliance with its share of the new regulations will cost more than $2 billion; in a filing earlier this year, Arkansas Attorney General Leslie Rutledge (R) said the plan could jeopardize the reliability of the state's power supply (*Greenwire*, Feb. 28).

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EPA, Industry Cite Methane NSPS Review, Delay Plans To Back Recall Bid

Inside EPA

By: Abby Smith

Published: July 12, 2017

EPA and several industry groups are intensifying their calls for a federal appellate court panel to recall its mandate requiring the agency to immediately implement Obama-era methane limits for oil and gas facilities, charging the court's immediate issuance of its mandate vacating EPA's stay risks undercutting the agency's reconsideration of the rule and is unreasonable given agency plans to further stay the requirements.

"[T]he short duration of EPA's stay and the fact that Petitioners have prevailed on the merits (at this stage) should not be dispositive of whether the Court takes the unusual step of mandating that EPA and the regulated community immediately comply with the Court's decision," EPA writes in a July 12 reply brief.

"The short duration of EPA's stay presents all parties, Petitioners and Respondents alike, with a risk that a favorable, final decision may not translate into effective relief," the agency adds.

EPA's brief seeks to support its July 7 motion to recall a mandate from the U.S. Court of Appeals for the District of Columbia Circuit requiring the agency to immediately lift its 90-day administrative stay of the Obama-era oil and gas methane new source performance standards (NSPS).

The agency has asked the court for "at least" 52 days before it must implement the Obama-era rule. Some of the rule's compliance deadlines, including a requirement for regulated entities to submit initial monitoring surveys, have already passed, so how the court addresses the issue could determine whether industry must comply with any of the rule's requirements.

The D.C. Circuit in a split July 3 ruling vacated the stay, with the majority siding with environmentalists' arguments that EPA did not properly use its authority under section 307(d)(7)(B) of the Clean Air Act to pause the rule's provisions.

Environmentalists and supporting states, in July 11 responses, opposed the recall motion, suggesting it would be counter-intuitive for the court to grant EPA the time it is seeking because it "would effectively nullify the Court's decision by allowing EPA to run out the clock." The immediate timing of the mandate, they argue, was required due to the short duration of EPA's 90-day stay in order to properly grant petitioners the relief they were seeking.

Environmentalists also charged that EPA Administrator Scott Pruitt's “dilatory and irregular approach” to staying the rule's requirements -- which took almost seven weeks to be released, two days after the rule's June 3 compliance deadline for initial monitoring surveys -- for any problems that industry might face in complying.

But both EPA in its July 12 reply and industry intervenors in a July 11 response supporting the recall motion argue that the D.C. Circuit's decision to immediately issue its mandate “deprived” them “of the opportunity to explain to the Court why expedited issuance of the mandate would be unwarranted."

They also argue such a scenario “relieved” environmentalists of their “obligation” to show why a hastened issuance was justified.

According to the briefs, the court typically does not issue such a mandate until one week after the timeframe during which EPA can seek rehearing expires, thus a 52-day window.

'Whipsaw'

Industry intervenors -- including the American Petroleum Institute, GPA Midstream Association, the Interstate Natural Gas Association of America, Texas Oil & Gas Association, Western Energy Alliance, Independent Petroleum Association of America and others -- are explicitly asking the court to withdraw the mandate until that 52-day timeframe has expired.

EPA's request is less specific, seeking either the “standard period” or “such other reasonable period as the Court deems appropriate.”

The agency and industry sharply refute the arguments from environmentalists and states. They argue, in part, that lifting the stay would lead to only “incremental” emissions reductions that do not justify the risk to industry from the costs of immediate compliance.

EPA also suggests that the court's immediate issuance of the mandate could undercut its reconsideration and review of the methane NSPS, countering an argument from environmentalists that the action would not affect such a process. The D.C. Circuit in its July 3 ruling also noted its vacatur of the stay that "nothing in this opinion in any way limits EPA's authority to reconsider the final rule."

But EPA charges, "By Petitioners' own estimate, there are more than 14,000 wells that are subject to compliance with the 2016 Rule and which may incur costs of compliance; to the extent they must do so, this circumscribes the meaningfulness of EPA's grant of reconsideration of the 2016 Rule."

Industry groups, in their July 11 response, also argue that because the D.C. Circuit did not rule on environmentalists' request for a judicial stay of EPA's administrative stay, it did not properly weigh the balance of harms -- which they argue should impact the court's decision to issue an immediate mandate.

"Because this Court specifically declined to decide whether to grant an emergency stay, which would have required it to apply the four-factor test, there are no judicial findings regarding what harm would occur if the stay is vacated. The lack of judicial findings is significant given that both EPA and the Industry Intervenor-Respondents contested the Movants' claims of harms," the industry brief reads.

The industry groups also specifically link the issue to EPA's two pending proposals to delay the methane NSPS requirements by three months and by two years. Because EPA could be in a position to finalize such actions "within just a few short weeks," it is "unreasonable" for the D.C. Circuit to immediately require the agency to lift its 90-day stay, as the requirements "may again be stayed" shortly after they are implemented.

"This whipsaw could accomplish little in the way of environmental protection during the remaining days of the 90-day stay period, but would impose very significant costs and implementation burdens on affected facilities," the industry brief says. "By granting summary disposition, the Court has not considered these important factors. They weigh heavily here against an immediate mandate."

Nonetheless, environmentalists are also attempting to link the D.C. Circuit's actions on the 90-day stay with the pending EPA proposals, suggesting the latter is an unlawful extension of the agency's earlier effort that has now been vacated by the court.

Other observers have said a key flaw in EPA's proposed two-year delay is that it links the move to the agency's reconsideration proceeding. Environmentalists and other observers say air act section 307 only allows the agency to stay rulemakings linked to a mandatory reconsideration process -- in other words, one required by the two-pronged test -- for no longer than three months.

Thus, because EPA is proposing to delay the methane NSPS provisions for an additional two years, beyond the 90-day stay that has now been vacated by the court, environmentalists say EPA could find its action difficult to defend.

Pruitt Weighs In

Environmentalists claimed the D.C. Circuit's July 3 ruling as a first victory over Trump EPA efforts to roll back Obama-era climate and environmental regulations, and many observers say the ruling could have an impact in pending litigation over EPA attempts to delay other Obama-era rules -- including methane standards for landfills.

But EPA Administrator Scott Pruitt in a recent interview with *Reuters* appeared to downplay any connection between the methane NSPS litigation and other efforts, both to delay rules and to roll them back.

"That was a case about our authority to stay certain rules. That's distinct from withdrawing rules, " he told *Reuters*. "I think that our section 307 stay that we used there was because we were up against the compliance time and [tried] to use authority that we thought was well established."

Pruitt said EPA will "respond accordingly" to the July 3 ruling, suggesting the agency is considering options for appeal, but he described the methane NSPS litigation as a "case focused on the facts of that particular case," seeking to distance it from other delay efforts.

"I don't think it says anything to us with respect to authority we have to stay under section 705 of the Administrative Procedure Act or section 307 of the Clean Air Act," Pruitt said. "Those are well established procedures we have. We will use them accordingly as necessary."

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House panel takes first step in cutting $528 million from EPA

Washington Examiner

By: John Siciliano

Published: July 12, 2017

House appropriators took the first step in advancing major cuts to the Environmental Protection Agency in approving a $31.4 billion funding bill on Wednesday for the EPA and the Interior Department.

The bill would cut the EPA's budget for fiscal 2018 by $528 million, or 6.5 percent, slicing the agency much less than the 31 percent cuts proposed in President Trump's budget request.

The bill sends the agency's budget to where it was before former President Barack Obama was elected.

The bill was approved by voice vote in the interior and environment subcommittee, which advances it to the full committee.

Funding for fire prevention and other key services under the Interior Department were not removed, but the programs would receive tens of millions of dollars less than fiscal 2017 enacted levels.

Democrats said during the Wednesday markup that the spending bill includes a number of alarming policy riders, including those that would roll back endangered-species protections and clean air and water regulations.

The Fish and Wildlife Service, which designates endangered species, was funded at $1.5 billion, a $38 million drop below the fiscal 2017 level. It prioritizes funding to reduce the endangered species delisting and refuge maintenance backlogs, fight invasive species, and prevent illegal wildlife trafficking and the closure of fish hatcheries.

"The bill also continues a one-year delay on any further Endangered Species Act status reviews, determinations, and rulemakings for greater sage grouse," according to a bill summary.

A key chemical safety board that Trump had sought to terminate was funded at $11 million.

Overall, the spending the bill is $824 million below fiscal 2017 enacted levels and $4.3 billion above the president's request.

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Democrats Criticize EPA FY18 Bill Despite Rejection Of Trump Budget Cuts

Inside EPA

By: Doug Obey

Published: July 12, 2017

The House Appropriations Committee's interior panel has approved EPA's fiscal year 2018 spending bill over objections from Democrats who fault the measure's overall proposed $528 million cut to the agency's existing roughly $8 billion, even though that cut is significantly smaller than under President Donald Trump's FY18 budget plan.

Although the bill cleared the interior subcommittee July 12 by voice vote, it faces an uncertain future in the House and Senate given opposition from Democrats. In addition to criticizing the proposed cuts to the agency's funding, they also protest policy riders included in the bill that would impact EPA -- such as language on withdrawing the Obama administration's Clean Water Act (CWA) jurisdiction rule and to delay implementation of ozone standards.

Still, the legislation -- which would fund the agency at $7.5 billion in FY18 -- contrasts sharply in broad terms with Trump's budget proposal to cut EPA funding 31 percent down to $5.7 billion.

Yet the policy riders and hundreds of millions of dollars that Republicans are looking to cut from EPA's budget mean that Democrats appear outright opposed to the bill moving through the House.

At the July 12 markup, House Appropriations Committee interior panel ranking member Betty McCollum (D-MN) cited to 16 "policy riders" in the bill affecting EPA and other agencies.

She also criticized a proposed $528 million cut to EPA in FY18 she said would leave the agency with $2.2 billion dollars less than it had in 2010, with 2,000 fewer staff. "These provisions seek to turn back protections for endangered species and undermine clean air and clean water protection," said McCollum, contrasting the funding bill as a whole with the recent FY17 spending deal that received bipartisan support. "I know that working together we can achieve the same bipartisan consensus this year, but this is not the bill that is going to get us there."

Full House Appropriations Committee ranking member Nita Lowey (D-NY) pointed to difficulties Republicans are having in agreeing to basic funding levels across the federal government. And she suggested that Democrats are unlikely to cooperate in moving the EPA spending bill, given the proposed $528 million EPA cut and EPA-related policy riders including language to speed withdrawal of the CWA jurisdiction rule.

"With all of these procedural roadblocks entering our path forward, one might think majority would produce bills that could possibly gain support from Democrats by, for example, funding

critical investments to keep our air and water clean, or they might refrain from adding poison pill riders," said Lowey.

Lowey also said climate change is an issue that "poses a threat to every living being on our planet," and she objected to "draconian cuts" to EPA's budget in that area that would "damage the world for generations to come."

Funding Legislation

Democrats' remarks prior to the panel vote contrasted with those by House Appropriations Committee interior panel Chairman Ken Calvert (R-CA), who in opening remarks noted that the bill would fully fund the Great Lakes Restoration Initiative at FY17 levels of $300 million -- a program the Trump administration is proposing to eliminate.

Calvert also touted the legislation's $5 billion investment in water infrastructure and noted a proposed $47 million increase in FY18 for "on the ground Superfund remedial work."

Full House Appropriations Committee Chairman Rodney Frelinghuysen (D-NJ) similarly praised the spending bill, noting that his state has more Superfund sites than any other and that the legislation "continues to support ongoing cleanup efforts" for those sites.

Frelinghuysen also said his panel oversight has "identified opportunities to rein in the federal bureaucracy and to stop many harmful and unnecessary regulations that destroy economic opportunity and kill jobs."

The subcommittee's approval of the bill follows a June 26 letter to Senate appropriators from 39 Senate Democrats and additional backing from Senate Democratic leadership calling for FY18 spending legislation free of controversial environmental policy riders."

The letter cited the FY17 budget deal "largely free of unrelated policy riders" and suggested that

Democrats would withhold support from spending bills with such riders. "As you know, the inclusion of such riders has undermined the Senate's ability to pass appropriations bills in the past," the letter said.

The dynamic points to potential challenges both in the House and Senate to moving EPA spending in a standalone legislative measure, given Democratic concerns over the funding cuts and policy measures, and frequent reluctance by many conservative Republicans to vote for spending bills.

The FY17 spending deal, approved with significant Democratic votes and with largely flat EPA spending, occurred with the Trump administration and Hill Republicans eager to dispense with fights over FY17, and appropriators at the time suggested that EPA could face a tougher time protecting its programs in FY18.

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Senate Environment Panel Approves EPA Enforcement Nominee

Bloomberg BNA

By: Catherine Douglas Moran

Published: July 13, 2017

A Senate committee narrowly approved the nomination of Susan Parker Bodine to serve as EPA's assistant administrator for the Office of Enforcement and Compliance Assurance.

The Senate Committee on Environment and Public Works voted 11-10 to approve the nomination of Bodine, who has served as chief counsel for committee Republicans. The vote will be reported to the full Senate for approval.

"Susan has been a collegial partner to my staff...and the agency's gain will be our committee's loss," Sen. Tom Carper (D-Del.) said before the July 12 vote, though he noted that he would not support any EPA nominees until Administrator Scott Pruitt responded to "many unanswered letters" sent by committee Democrats.

Bodine has almost 30 years of environmental law experience both in government service and private practice.

She served from 2006 to 2009 under the George W. Bush administration as the assistant administrator for the Environmental Protection Agency's Office of Solid Waste and Emergency Response, which directs hazardous and solid waste management and cleanup programs. Earlier in her career she was staff director and senior counsel on the water resources and environment subcommittee of the House Committee on Transportation and Infrastructure. She also was a partner at Barnes & Thornburg LLP and an associate at Covington & Burling LLP.

Lobbying records show her clients when she was at Barnes & Thornburg included Saint-Gobain Containers Inc., the American Farm Bureau Federation, the American Forest and Paper Association, and American Process Inc.

As the next assistant administrator for enforcement and compliance assurance, Bodine would be responsible for managing the office's activities to target pollution problems, oversee enforcement of environmental laws, and protect low-income and minority communities that are overburdened by pollution.

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EPA Inhofe Alumni Group Closer to Expanding

Roll Call

Published: July 12, 2017

President Donald Trump's nominations for an assistant EPA administrator and two members of the Nuclear Regulatory Commission were advanced Wednesday by the Senate Environment and Public Works Committee.

Lawmakers on the panel voted, 11-10, to move forward with the nomination of Susan Bodine to become the EPA's assistant administrator of enforcement and compliance assurance. The Office of Enforcement and Compliance Assurance enforces EPA's rules and oversees the agency's environmental justice and compliance.

No Democrats on the panel voted for Bodine, who has been the committee's chief counsel since January 2015, as they objected to the lack of response to letters they have sent to EPA Administrator Scott Pruitt's office.

"Susan has been a collegial partner to my staff, and the agency's gain will be our committee's loss," committee ranking member Thomas R. Carper, D-Del., said in his opening remarks. "However, as I said when her nomination was announced, I am unable to support any nominees to the EPA until Administrator Pruitt responds to the many unanswered letters submitted to him by members of this committee."

Bodine was named to the committee's chief counsel position by then-Chairman James M. Inhofe, R-Okla. If confirmed, she would add to a growing number of former Inhofe employees joining the Trump administration.

Bodine came to the committee from the law firm Barnes & Thornburg, where she had been a partner. She was an assistant administrator in the EPA's Office of Solid Waste and Emergency Response under President George W. Bush and worked on the House Transportation and Infrastructure Committee's Water Resources and Environment Subcommittee as staff director and counsel.

The panel also voted, 15-6, to advance Nuclear Regulatory Commission nominee Annie Caputo, with the support of some Democrats, including Tammy Duckworth of Illinois and Benjamin L. Cardin of Maryland.

Caputo has had a long career as a congressional staffer, most recently as senior policy adviser for the committee's Republicans both under Chairman John Barrasso, R-Wyo., and former chairman Inhofe. She has also worked as an executive for Exelon Corp.

David Wright, also tapped for the NRC by Trump, received a vote of 11-10 along party lines. He is a former chairman of South Carolina Public Service Commission and former president of the National Association of Regulatory Utility Commissioners. He now runs his own consulting and communications business .

"They all have proven themselves to be well-qualified, experienced and dedicated public servants," Barrasso said of the three nominees during his opening statement.

The NRC operates with a five-member commission, usually made up of two members from each party and a chairman selected by the president. Caputo and Wright would join Jeff Baran, a Democrat, independent Stephen Burns and Republican Kristine Svinicki, who was confirmed in June to a third consecutive five-year term.

The commission is expected in the next year to begin consideration of licenses for so-called advanced nuclear reactors that are smaller and more versatile than existing designs, the potential restart of the Yucca Mountain licensing review and regulations concerning the decommissioning of aging reactors.

EPW lawmakers also on Wednesday approved, en bloc, by voice vote a group of bipartisan measures, including Carper's legislation to reauthorize an EPA program that provides funds for rebuilding or retrofitting old diesel engines with modern emission control devices to comply with federal and state pollution rules.

The Diesel Emissions Reduction Act (S 1447) would extend for five years the program created under the Energy Policy Act of 2005 (PL 109-58), authorizing $100 million annually for technology to curb toxic diesel releases. Lawmakers on the panel approved the bill without amendment. The bill was co-sponsored by Barrasso and Inhofe.

Despite the Trump administration's proposal to cut funding for DERA in the fiscal 2018 budget request, the program has proven popular and lawmakers on the committee have said it is a common-sense approach to curbing toxic diesel emissions and promoting public health, while creating jobs.

According to the EPA, which disburses the funds, older diesel engines emit higher amounts of pollution, including nitrogen oxides, which have been found to be harmful to human health.

"The program is one of the most effective EPA programs, resulting in enormous environmental and public health benefits, while creating jobs here at home," Carper said in his opening remarks.

The program is voluntary, but the tax rebates and grants act as an enticement for vehicle owners, businesses or school districts to rebuild or retrofit their old diesel engine fleets.

A measure (S 822) that would reauthorize the EPA's Brownfields Program was also among those approved in the en bloc voice vote. Barrasso said the bill would expand eligibility for brownfield funds — which aid in the reclamation of toxic waste sites for economic development — and make their use more flexible.

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Chaos or conspiracy? Key posts vacant as nominations lag

Greenwire

By: Hannah Northey

Published: July 12, 2017

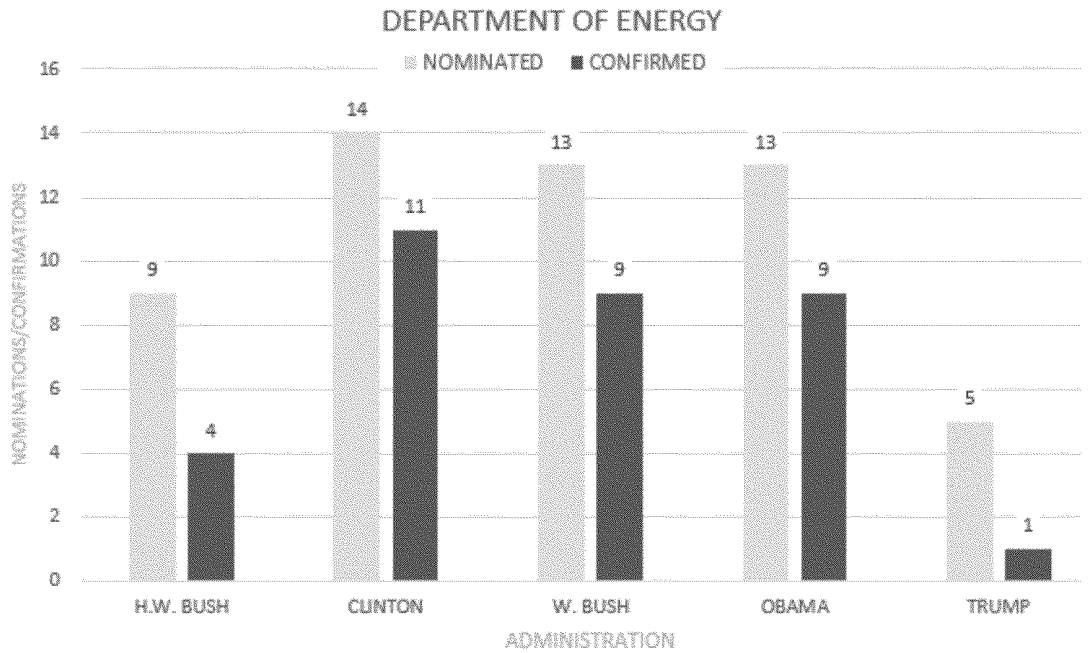
President Trump blasted Democrats on Twitter this week for blocking his nominees, but he's about six weeks off the pace set by his predecessors for picking people to fill more than 1,200 jobs that need Senate confirmation.

"The Trump administration is way behind. They're way off the path of other administrations," said Terry Sullivan, a political scientist at the University of North Carolina, Chapel Hill, and executive director of the nonpartisan White House Transition Project. "The Trump administration is below the performance of every president since Reagan in terms of not just getting people confirmed, but in terms of nominating people."

To be sure, the Senate is taking longer to confirm Trump nominees. The Partnership for Public Service says the Senate took an average of 44 days to confirm Trump's picks, breaking the previous record, 37 days for President Obama's nominees.

But Max Stier, the nonpartisan partnership's president and CEO, said the big problem is the White House, not the Senate. Nominees, he said, are relatively scarce.

Energy and environment nominees and confirmations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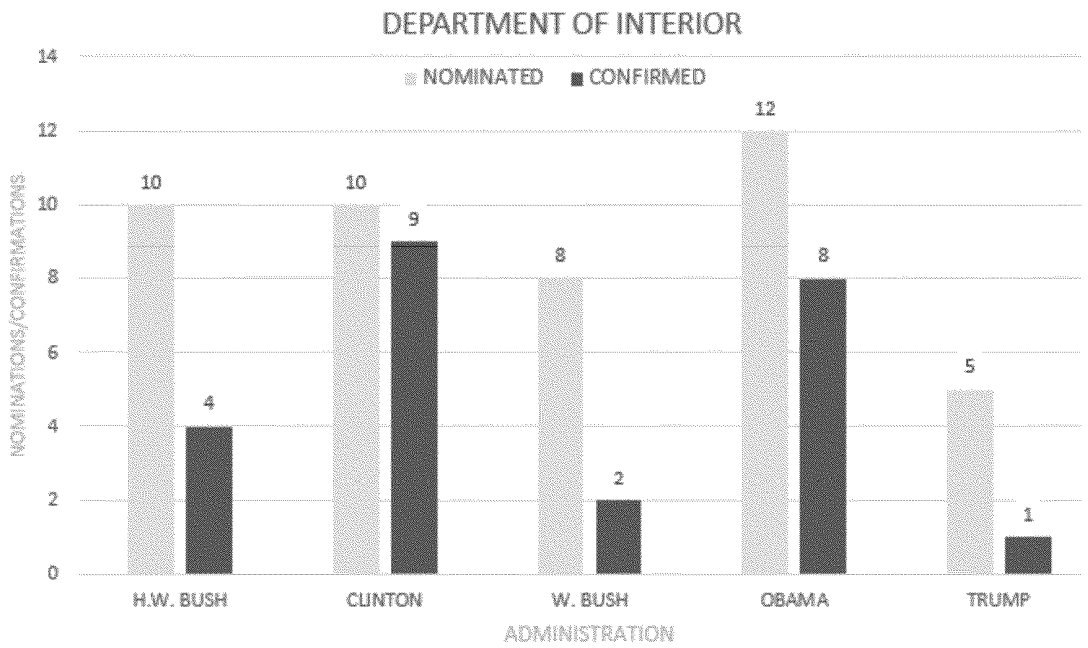
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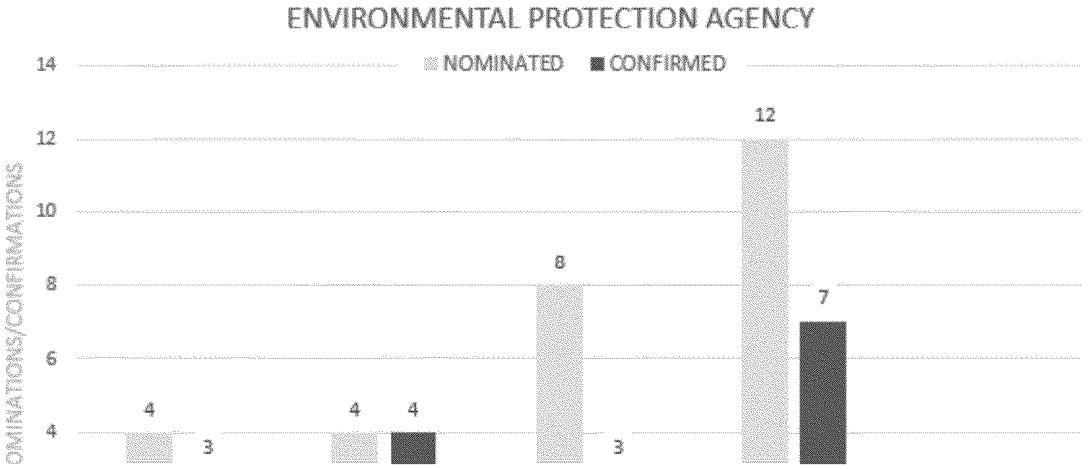
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Of the 564 positions tracked by *The Washington Post* and the partnership, 374 have no nominees. At the departments of Energy and the Interior and U.S. EPA, only the agency heads have been confirmed, leaving scores of offices in the hands of acting officials.

The vacancies have lawmakers and White House officials pointing fingers at each other.

Republicans and the White House accused Senate Democrats this week of using procedural tactics — requiring cloture votes and boycotting confirmation hearings — to stall Trump's agenda.

Marc Short, the White House legislative director, said Monday that Democrats were sitting on 32 nominees waiting for a floor vote, calling it the "slowest confirmation process in American history." He complained the upper chamber has approved only 50 Trump nominees, compared with 202 officials at the same point in the Obama administration.

Democrats shot back that Republicans hold the majority in the upper chamber and can move the president's picks through committee to the floor for a vote. Senate Minority Leader Chuck Schumer (D-N.Y.) yesterday even challenged his Republican counterparts to bring nominees up for a vote this week, saying "they will get approved."

"This president has nominated fewer nominees than anyone else, and ... many more were brought here to the Senate without the necessary documentation, the paperwork, the ethics reports, the FBI reports," he said.

Said Stier, "The reality is there's blame to go around, but the large bulk of the issue has been the slowness of his nominations. You're not seeing a markedly different amount of time for the Senate to address these; what you are seeing is a much slower pace of nominations by the president."

Even key Senate Republicans have complained about delays in getting paperwork needed to complete a nomination and get a committee hearing and vote.

Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) has several times lamented a lag in getting nominees' information from the White House for nominees for posts at DOE and the Federal Energy Regulatory Commission. It's unclear, she said in early May, why the White House has taken so long to move on nominees.

"All I know is names go into a dark hole and it just seems to take forever," she said (*E&E Daily*, May 3).

'They're behind on everything'

Vacancies across the government could create operational — and not just political — headaches for the Trump administration if more nominations aren't made and vetted, Stier warned.

The Federal Vacancies Reform Act bars acting officials from serving in a Senate-confirmed position for more than 240 days without having a nominee before the upper chamber, he said.

Stier said the law is aimed at preventing an administration from doing an "end-run around the confirmation process" by installing desired people in acting roles. If Trump fails to announce additional agency picks by September, the responsibilities for vacant offices would fall on Cabinet secretaries, he said.

"It'll further slow things down," Stier said. "These are huge organizations, and those jobs are already on the verge of being undoable."

Having critical offices overseen by acting officials is already putting a kink in operations and threatens to slow Trump's wide-ranging plans to whittle down EPA and DOE.

But despite talk in Washington about Trump slow-walking nominations being part of a strategy to pare down the government and starve some agencies, UNC's Sullivan said he sees no evidence of that.

"They are not ahead on the agencies they care about and behind on the agencies they don't care about," he said. "They're behind on everything. It's not a reflection of a strategy."

What's behind the administration's sluggish start? Sullivan pointed to a "perfect storm": a chaotic transition after Trump's surprise election win, a slow start on lining up nominees, relatively inexperienced staffers, an inefficient process for vetting job candidates and a laser focus among Trump officials on loyalty to the president.

He pointed to John DeStefano, Trump's official headhunter and director of presidential personnel, who jumped to the White House fresh from his job providing political data to conservative groups and congressional stints.

DeStefano served as political director to former House Speaker John Boehner (R-Ohio) and was deputy executive director of the National Republican Congressional Committee.

"It's the first time he's done anything like this," Sullivan said. "He came from the House, a staffer trying to do a good job, but he's not familiar with it. And they didn't start early enough focusing on this."

'Problematic' hires?

And then things slow down when nominees hit the Senate, which has a crowded legislative calendar.

Sullivan said the longer an administration waits to nominate candidates, the longer it will take for those picks to get approved in the upper chamber.

Senate Majority Leader Mitch McConnell (R-Ky.) said yesterday the Senate would shrink its August recess to turn to "the backlog of critical nominations that have been mindlessly stalled by Democrats" after lawmakers complete work on the enormously complicated health care legislation and a defense spending bill.

As the Senate grinds on, Trump's political hires who are at work in the agencies have been getting some unwelcome attention.

DOE, for example, has faced pushback on and off Capitol Hill and even fired a Trump political appointee after inflammatory tweets and op-eds surfaced (*E&E News PM*, July 7).

Stier said many political hires across the government were hastily pulled from Trump's so-called agency beachhead and landing teams.

"They were thrown together very quickly at the last minute, and I don't think there was deep vetting," he said. "As a result, I think you're finding there are a number of people who are problematic."

But Tom Pyle, president of the American Energy Alliance, who oversaw Trump's transition for DOE, said the process was not overly rushed and members of the landing team were thoroughly vetted. Pyle said a fair number of people who served on the Trump campaign expressed interest in serving the president when he assumed office and, like other administrations, came aboard but either found it wasn't a good fit or lost interest.

"It's very typical, not abnormal," Pyle said.

Dozens of open jobs

DOE vacancies

- General counsel (David Jonas, not yet confirmed)
- Chief financial officer (no nominee)
- Undersecretary for energy (Mark Wesley Menezes, not yet confirmed)
- Undersecretary for management and performance (no nominee)
- Undersecretary for nuclear security/administrator for nuclear security (no nominee)
- Assistant secretary for congressional and intergovernmental affairs (no nominee)
- Inspector general (no nominee)
- Undersecretary for science (Paul Dabbar, not yet confirmed)
- Assistant secretary for electricity delivery and energy reliability (no nominee)
- Assistant secretary for energy efficiency and renewable energy (no nominee)
- Assistant secretary for environmental management (no nominee)
- Assistant secretary for fossil energy (no nominee)
- Assistant secretary for nuclear energy (no nominee)
- Assistant secretary for international affairs (no nominee)
- Administrator, U.S. Energy Information Administration (no nominee)
- Director, energy advanced research projects department (no nominee)
- Director, Office of Economic Impact and Diversity (no nominee)
- Director, Office of Science (no nominee)
- Deputy administrator for defense programs, National Nuclear Security Administration (no nominee)
- Deputy administrator for defense nuclear nonproliferation (no nominee)
- Principal deputy administrator, National Nuclear Security Administration (no nominee)

EPA vacancies

- Deputy administrator (no nominee)
- General counsel (no nominee)
- Chief financial officer (no nominee)
- Assistant administrator for water (no nominee)
- Assistant administrator for administration and resources management (no nominee)
- Assistant administrator for air and radiation (no nominee)
- Assistant administrator for chemical safety and pollution prevention (no nominee)
- Assistant administrator for enforcement and compliance assurance (Susan Bodine, not yet confirmed)
- Assistant administrator for environmental information (no nominee)
- Assistant administrator for international and tribal affairs (no nominee)
- Assistant administrator for research and development (no nominee)
- Assistant administrator for solid waste and emergency response (no nominee)

Interior vacancies

- Deputy secretary (David Bernhardt, not yet confirmed)
- Solicitor (no nominee)
- Assistant secretary for policy, management and budget (Susan Combs, not yet confirmed)
- Inspector general (no nominee)
- Assistant secretary of Indian affairs (no nominee)
- Assistant secretary for insular areas (Doug Domenech, not yet confirmed)
- Assistant secretary for fish, wildlife and parks (no nominee)
- Assistant secretary for land and minerals management (no nominee)
- Assistant secretary for water and science (no nominee)
- Director, Bureau of Land Management (no nominee)
- Commissioner, Bureau of Reclamation (Brenda Burman, not yet confirmed)
- Director, National Park Service (no nominee)
- Director, Office of Surface Mining Reclamation and Enforcement (no nominee)
- Director, Fish and Wildlife Service (no nominee)
- Director, U.S. Geological Survey (no nominee)
- Special trustee for American Indians (no nominee)

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After Kemper debacle, senators see promise in CCS bill

E&E Daily

By: Christa Marshall

Published: July 13, 2017

An unusual coalition of coal-state Republicans and liberal Democrats is pushing legislation to boost carbon capture and sequestration technology, despite the recent collapse of Southern Co.'s flagship "clean coal" project.

The "Furthering Carbon Capture, Utilization, Technology, Underground Storage and Reduced Emissions (FUTURE) Act," introduced yesterday, would expand existing tax credits for stored carbon dioxide trapped from industrial facilities and power plants.

The measure is backed by a mix of oil companies, coal interests like Peabody Energy Corp. and environmental groups like the Natural Resources Defense Council.

Southern announced this month it was abandoning its Kemper CCS project in favor of a natural gas plant following years of cost overruns and other problems.

When asked whether developments surrounding that venture might repel lawmakers from CCS, sponsor Sen. Heidi Heitkamp (D-N.D.) said she wasn't concerned. Heitkamp said the bill would promote research to help prevent setbacks in the first place.

"Had we invested in this technology, they might have had greater success," Heitkamp said at a press conference with sponsors Sens. Shelley Moore Capito (R-W.Va.), John Barrasso (R-Wyo.) and Sheldon Whitehouse (D-R.I.). "So that's the idea, to be the technological leader."

Heitkamp added, "I think you have to look at Petra Nova," referring to the world's largest retrofit of a coal plant in Texas that launched this year without the same cost overruns of Kemper.

Similarly, Capito said she had spoken to Energy Secretary Rick Perry and administration officials about carbon capture technology and believed the president was "committed."

Heitkamp said she was hopeful she could get a third of the Senate behind the bill. And there are discussions with members of the House for a companion, she said.

The proposal would expand tax credits worth $20 per metric ton for captured CO2 stored in geological formations and $10 per metric ton for CO2 used in enhanced oil recovery.

Advocates say that the current credit is too low to help projects and creates uncertainty for developers because of an overall tax program cap of 75 million tons of CO2. As of 2014, companies had exhausted half that amount.

Without a carbon price or new incentives, "the market just doesn't support this, so that's why we are stepping in," Whitehouse said.

The legislation would increase the credit value to $35 per metric ton for CO2 used in EOR and $50 per metric ton for CO2 stored in geological formations.

It also would allow the $35 credit to be used for air capture projects and other "utilization" of CO2 outside EOR.

Additionally, it would remove the 75 million cap for new projects and allow developers to claim the credit for up to 12 years. They would also be able to transfer the credit to another entity involved in storage.

Heitkamp said new incentives are needed, including for storing CO2 from burning natural gas and a range of fuels, because of long-term climate change projections and continued use of fossil energy globally.

In the U.S., the money spigot from the 2009 American Recovery and Reinvestment Act that drove initial large carbon capture demonstrations is gone, so there are not other large projects under construction.

"If you look at any international report on meeting target levels for reduction of carbon ... none of them say you can do it without having some kind of carbon capture and sequestration," said Heitkamp.

Senate Majority Leader Mitch McConnell (R-Ky.) is not an official co-sponsor of the bill, despite being one on similar legislation in the previous session of Congress.

A McConnell spokesman said the majority leader "continues to be interested in the progress of carbon capture technology. He is currently focused on comprehensive tax reform, but this is one of many items that may be discussed during debate."

And critics of CCS, like the environmental group Friends of the Earth, were quick to tie Kemper to the new tax credit proposal.

"Senators haven't learned the simple lesson of Southern Co.'s disastrous Kemper plant: These projects do not make economic or environmental sense. ... Even worse, this legislation enables the ignorant and dangerous energy rhetoric coming from the White House," said Lukas Ross, a climate campaigner for the group.

Industry analysts say that Kemper's woes weren't caused by CCS technology (*Greenwire*, June 23). And Heitkamp noted that previous versions of the legislation nearly made it across the finish line three or four times.

The bill has five more sponsors this time around than at the end of the 114th Congress. "It's not like some pipe dream that's been out there; we've been very close," Heitkamp said.

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House Panel Moves to Repress 'Back-Room' Rulemaking

Bloomberg BNA

By: Stephen Lee

Published: July 13, 2017

"Sue and settle" rulemaking by federal agencies, carried out without public input or knowledge, would be abolished under a bill approved by a House panel July 12.

The Sunshine for Regulations and Regulatory Decrees and Settlements Act (H.R. 469) now moves to the full House, where its prospects appear good, considering the keen desire of House Republicans to reduce regulations.

The bill would allow third parties affected by a consent decree or settlement agreement to get involved in the negotiations. It passed the House Judiciary Committee on a 15-8 party line vote. The same legislation cleared the House in the last Congress but never moved in the Senate.

Rep. Bob Goodlatte (R-Va.), the panel's chair, said during the markup hearing that federal agencies have increasingly relied on sue and settle rulemaking, in which an agency cuts a deal with an interest group.

First, the group sues the agency on the grounds that it has violated a statutory requirement, typically involving missed deadlines for issuing a rule.

Then, rather than fighting the litigation, the agency settles with the plaintiff by moving forward with the rule or agreeing to deadlines for decision making.

Democrats Offer Resistance

But Rep. John Conyers (D-Mich.), the committee's top Democrat, said the bill would delay regulatory protections and increase safety and health risks.

By giving affected third parties the right to intervene in settlement negotiations, H.R. 469 would allow “conceivably anyone who breathes air” to participate in Clean Air Act settlements, Conyers said.

During the markup, Rep. David Cicilline (D-R.I.) noted that former Assistant Attorney General

John Cruden said he had no evidence suggesting that agencies have participated in sue-and-settle collusion with interest groups.

In January, however, Rep. Doug Collins (R-Ga.), the bill's sponsor, said more than 100 sue-and-settle regulations were issued during the Obama administration, at an annual cost to the economy of more than $100 billion.

Collins also said the Environmental Protection Agency's Mercury and Air Toxics Standards rule was "the result of a consent decree with the EPA that enacted emissions regulations outside of the purview of the Clean Air Act." The rule costs U.S. industry more than $9 billion per year, Collins said.

Environmental groups have historically taken advantage of the sue-and-settle process the most, according to the U.S. Chamber of Commerce. In 2013, the chamber listed the Sierra Club, WildEarth Guardians, Natural Resources Defense Council, Center for Biological Diversity, and Environmental Defense Fund as the tactic's top five abusers.

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P. Bloomberg BNA is an affiliate of Bloomberg L.P.

Senate Picture Cloudy

Sen. Chuck Grassley (R-Iowa) introduced a Senate version (S. 119) in January, but Republicans in the upper chamber haven't shown the same enthusiasm for regulatory changes that their House colleagues have.

Grassley told Bloomberg BNA last month that he couldn't predict whether his legislation would be taken up.

The Judiciary Committee rejected, on a 15-7 party line vote, an amendment offered by Rep. Sheila Jackson Lee (D-Texas) that would have carved out an exemption for low-income and minority populations exposed to toxic substances.

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Lawmakers approve 'sue-and-settle' bill

E&E Daily

By: Amanda Reilly

Published: July 13, 2017

A House committee yesterday advanced legislation Republican backers say is necessary to counter the so-called sue-and-settle phenomenon.

The bill, introduced by Rep. Doug Collins (R-Ga.), would require agencies to publicly post and report to Congress any information on lawsuits, consent decrees or settlement agreements. It would also prohibit same-day filing of complaints and pre-negotiated settlements.

The House Judiciary Committee voted 15-8 along party lines to approve the measure after voting down — also along party lines — a Democratic amendment to exempt settlements related to toxic pollution.

Collins said H.R. 469 would cut down on instances in which special interests file litigation to force federal agencies to cut backroom deals and settle disputes through new regulation.

"Too often we have seen pro-regulatory plaintiffs sue sympathetic agencies to enact regulations in the dark absent public input," he said.

Obama administration officials and environmental groups have denied that "sue and settle" is occurring. The Government Accountability Office has also issued reports refuting Republican claims about the phenomenon.

At yesterday's markup, Rep. David Cicilline (D-R.I.) said legal settlements and consent decrees are needed to enforce deadlines written into environmental statutes. Federal agencies often unlawfully fail to meet their mandatory obligations because of resource constraints, he said.

The Collins legislation would have a chilling effect on the use of consent decrees, said Rep. John Conyers (D-Mich.), the ranking member on the Judiciary Committee.

"I've come to the simple conclusion that its purpose is to discourage the use of settlement agreements and consent decrees," Conyers said.

The bill, he said, "will inevitably generate more litigation that will result in millions of dollars in additional transactional cost."

Collins, though, maintained that his legislation would preserve consent decrees as a tool for resolving legal disputes.

The markup came after key officials in the Trump administration have vowed to limit "sue and settle." U.S. EPA Administrator Scott Pruitt, for example, issued an "oral directive" instructing his agency to halt the practice (*Greenwire*, July 3).

House Judiciary Chairman Bob Goodlatte (R-Va.), who has pressed the administration to develop written guidelines on the issue as soon as possible, yesterday said that legislation is still needed.

"Without the help of statutory reform, relief may only be temporary," he said.

Senate Judiciary Chairman Chuck Grassley (R-Iowa) earlier this year introduced a companion

bill, S. 119, but his committee has yet to take any action (*Greenwire*, Jan. 13).

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Pruitt blasts Europe, Merkel for 'hypocrisy' on climate

POLITICO

By: Andrew Restuccia

Published: July 12, 2017

EPA Administrator Scott Pruitt dismissed European critics of President Donald Trump's climate policies as hypocrites on Wednesday, while chastising German Chancellor Angela Merkel for phasing out her country's nuclear power plants.

"I just think the hypocrisy runs rampant," Pruitt said in an interview with POLITICO. "To look at us as a nation and say, 'You all need to do more' in light of what we've done in leading with innovation and technology — the hypocrisy is palpable in those areas."

Pruitt mentioned Merkel by name, urging the public to press her on the issue. If reducing carbon dioxide emissions "is so important to you, Madam Chancellor, why are you getting rid of nuclear? Because last time I checked, it's pretty clean on CO2," he said.

Merkel is one of the most vocal public defenders of the Paris climate change agreement, the 2015 pact that Trump said last month he intends to leave. Merkel hosted the recent G-20 summit of the world's wealthiest economies, where the United States was the only country not to throw its support behind the deal. At the same time, Germany announced in 2000 it would phase out nuclear power, a shift that Merkel accelerated after the 2011 nuclear disaster in Japan.

Pruitt repeated his criticism of the Paris deal, casting doubt on whether the United States would

remain part of the climate agreement even if the Trump administration rewrites former President Barack Obama's aggressive plan to cut U.S. emissions. When Trump announced the withdrawal June 1, he held out the possibility of negotiating to "re-enter" the accord "on terms that are fair to the United States."

Pruitt argued that the United States has shown it can address climate change without being bound to an international agreement. He noted that U.S. carbon dioxide emissions have declined since President George W. Bush decided in 2001 to abandon the Kyoto Protocol.

"What we ought to be focused upon in my view is exporting innovation and technology to nations like China, like India, to help them with respect to their power grid," he said.

Pruitt said the United States will continue to engage with the international community on climate change, but he called the Paris deal "pure symbolism," adding, "It was a bumper sticker.

"Engagement is unquestioned. We're going to continue to engage," he said. "But we have led with action."

Still, Pruitt continued to raise concerns that remaining in the Paris deal could create legal complications as the administration tries to unravel Obama's domestic climate regulations, arguing that outside groups could seek to hold the U.S. to its pledges in court. "Why would you hold yourself out to that type of legal liability?" he said.

During the administration's monthslong debate over Paris, Pruitt and other opponents of the agreement made that argument behind the scenes, clashing with other Trump advisers who believed those legal fears were unfounded. Pruitt, along with Trump's chief strategist Steve Bannon, was the most forceful advocate of ending U.S. participation in the Paris deal.

Pruitt bristled at the phrase "climate denier," a description that his critics have often applied to him in light of his repeated statements disputing scientific conclusions about the large role humans play in warming the planet.

"What does it even mean? That's what I think about it. I deny the climate? Really? Wow, OK. That's crazy, in my view," he said.

Pruitt reiterated his position that the climate is warming and humans contribute to that, but "the ability to measure with precision the human contribution to warming is something that's very challenging to do."

In contrast, the vast majority of the world's climate scientists agree that the planet is warming in large part due to the burning of fossil fuels like coal. Pruitt has come under fire from Democrats — and even some moderate Republicans, including former EPA chiefs — for his stance on climate change. Others have raised red flags about the steep budget cuts facing the agency, worrying that its mission to protect human health and the environment could be compromised.

Pruitt has called for a public — possibly televised — debate about climate science.

"The American people deserve an honest, open, transparent discussion about that, and that's how you ultimately get to consensus," he said. "And I tend to think at times that maybe consensus wasn't the focus historically, over the last several years. It was to use it as a political issue, to put jerseys on — either you're for or against."

In the end, he said, his ability to regulate greenhouse gas emissions is limited by the 1972 Clean Air Act, whose authority he believes Obama overstepped when he imposed greenhouse gas restrictions for the nation's power plants.

Pruitt argued that the media's focus on climate change has distracted from the work he is doing at the EPA on everything from air pollution to regulating dangerous chemicals.

"We've got a very positive environmental agenda. [There's] work to be done, opportunity to achieve good outcomes, a plan to do that, and there's not very much margin, if any at all, with groups that are liberal, conservative, the rest, at getting those things done," he said.

Pruitt has sought to "reorient" the EPA toward what he argues are its core functions, including reducing air pollution, cleaning up toxic waste sites, regulating chemicals and improving water quality. Pruitt said he organized an internal task force that will soon deliver recommendations on how to improve the agency's Superfund program, which is designed to clean up the nation's worst toxic pollution sites.

The EPA administrator laid into Obama, arguing he didn't do nearly enough to limit air pollutants and sought to severely restrict the use of fossil fuels.

"God has blessed us with natural resources. Let's use them to feed the world. Let's use them to power the world. Let's use them to protect the world," Pruitt said. "But this idea that we as a nation have this abundance of natural resources and the job of this agency — and I'm speaking rhetorically here and facetiously — is to say, 'Do not touch.' Where is that in the statute?"

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Pruitt Faces FACA Rules In Bid For Climate Debate, Advisory Panel Reforms

Inside EPA

By: Maria Hegstad

Published: July 12, 2017

EPA Administrator Scott Pruitt's efforts to select new members for EPA's existing advisory committees and tap panelists for his "red-team, blue-team" climate science review are likely subject to membership and other requirements of the Federal Advisory Committee Act (FACA), which could limit his ability to bolster industry and other representation on the panels, EPA and other sources say.

Some are already warning they may sue the agency if officials fail to follow the law's requirements. Should the red-team, blue-team exercise "degenerate into some sort of kangaroo court farce, we'd certainly consider" a lawsuit under FACA authority, says David Bookbinder, a former Sierra Club lawyer who sued the Bush administration under FACA seeking to win documents on then-Vice President Dick Cheney's energy task force.

While he may file a lawsuit, Bookbinder, now chief counsel at the Niskanen Center, acknowledges that the law is difficult to enforce.

But Terry Yosie, who served as director of the EPA office that manages its Science Advisory Board (SAB) during the Reagan and George H.W. Bush administrations, agrees that Pruitt could face legal challenges under FACA. Current and future advisory panels, including Pruitt's planned red-team, blue-team climate science review, are all subject to the law's requirements.

"To me, there are a lot of legal issues," says Yosie, including its requirements for "balanced point of view" across the panel of experts, who manages the panel and transparency.

FACA requires, among other things, that advisory committee meetings be open to the public, published in the *Federal Register*, and have publicly available agendas.

The statute also has requirements for committees' makeup, requiring that "the membership of the advisory committee be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee."

The statute also requires that the committees "contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment."

But the law's requirements could be at odds with Pruitt's stated desire to increase industry and "geographic" representation on federal advisory committees. "The administrator believes we should have people on this board who understand the impact of regulations on the regulated

community," Pruitt's then-spokesman, J. P. Freire, said earlier this year.

Pruitt later clarified that he wants to emphasize new panelists' "geographical representation" as well as their scientific credentials. "What's really been emphasized by Congress as I went through the confirmation process is geographical representation, because you want to ensure as you're dealing with rulemaking -- air, water, whatever rulemaking we're doing, that the geographical uniqueness of our country as we're patching rules is taken in consideration," Pruitt said during a May 11 interview with talk radio host Hugh Hewitt.

BOSC Fallout

Pruitt's and his then-spokesman's comments came after he declined to renew expiring terms of members of EPA's Board of Scientific Counselors (BOSC), a panel that reviews the Office of Research and Development's research agenda.

The decision prompted widespread criticisms from environmentalists, Democrats and others. Deb Swackhammer, the chair of BOSC, told lawmakers that Pruitt's actions underscore the "marginalization" of science at EPA. Others have warned that Pruitt's actions may make it difficult for EPA to find scientists to serve on advisory panels, as many scientists and other experts who may be eligible to serve may not be willing to do so for fear their advice may not be heeded.

"They're doing everything they can to dissuade scientists from public service," says Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy. "I haven't seen any indication they intend to apply FACA."

The agency has also been struggling to seek nominations for new members to serve on some panels. For example, delays in seeking nominations for new members to serve on the Clean Air Scientific Advisory Committee may leave it without new members before current members leave in the fall, effectively grinding that group's work to a halt.

Many scientists and environmentalists are already raising concerns that the administration

actions so far may be at odds with FACA.

The American Association for the Advancement of Science (AAAS) and a host of other professional scientific groups wrote President Donald Trump late last month urging him to follow the letter and spirit of FACA, and pushed back against claims by Pruitt and his former spokesman seeking industry and geographic representation.

As agencies "reassess the role and composition of scientific advisory bodies, [they need] to ensure that the process of obtaining scientific and technical advice follows the letter and spirit of the [FACA] and is in accord with democratic principles of governance," their June 27 letter says.

While the groups said that advisory committees should include "diverse points of view, . . . requirements for balanced representation should pertain to scientific and technical competence and disciplinary focus."

"The selection, removal or replacement of advisory committee members or the disbanding of advisory committees based on criteria extraneous either to the science and technology issues that the agency addresses, or the representation of stakeholder interests, compromises the integrity of the process of receiving scientific advice," they added.

The societies have yet to receive a response, says Joanne Carney, director of AAAS' Office of Government Relations. She adds that the group sent the letter to Trump directly, since multiple agencies are "reviewing their scientific advisory committees." She said the letter should otherwise have been sent to the director of the White House Office of Science and Technology Policy but the White House has not yet nominated anyone to the position.

Enforcement Challenges

While AAAS and others are urging the White House to comply with the letter and spirit of FACA, there are challenges to bringing suit under FACA, says Bookbinder.

"FACA is extremely hard to enforce," Bookbinder says, pointing to section 5(b)(2) and 5(b)(3), which outline the requirements for balanced and independent advisory panels.

Bookbinder notes that the terms are not defined, and courts do not like to consider the language broadly. "They've made it very clear they don't want to wade into" the definition of balance, he said.

But, Bookbinder says that courts have been willing to rule on situations with advisory subcommittees assigned to a discrete task.

He says the bigger difficulty may be for plaintiffs to demonstrate standing in the case of the red-team, blue-team exercise, since a civil complainant must prove harm in order to bring a case.

"Who meets the legal test for injury? … That's why there is very little FACA [case] law." Again, Bookbinder notes that an advisory group with "a discrete [task] is more likely to affect someone. "

UCS' Rosenberg says that FACA problems are the least of [the red team exercise's] problems."

Under the plan -- which is sometimes used in the military or private companies -- a "blue team" of scientists would present the most robust evidence in support of man-made climate change, while a "red team" would seek to find flaws in the arguments. The process would repeat until, in theory, consensus emerges.

Pruitt's plan for the exercise, which he indicated July 11 could be televised, has been sharply criticized by many climate scientists and environmental groups. They argue that scientific findings already undergo a rigorous peer-review process and the new approach would give unwarranted weight to claims made by a small percentage of climate skeptics.

Rosenberg echoed those views, saying such an exercise is "not how you evaluate scientific evidence. It's not a high school debating exercise," he said. Rosenberg notes that climate science has been peer-reviewed multiple times by the National Academies, as well as by the United Nations' Intergovernmental Panel on Climate Change.

Review exercises are something that "usually, EPA would ask the National Academies to do. It indicates they don't know anything about science or are interested in the answer unless it comports with their" point of view. "It's not obvious to me and my colleagues that they're even consulting with the people who know what they agencies do. They've basically just dismissed existing expertise." Rosenberg adds that at EPA, Pruitt hasn't met with staff at any of the labs or any of the science staff.

But Bookbinder and his group say they have no concerns over Pruitt's plan, if the panel is appropriately balanced across scientific perspectives. "Bring it on," he says. "We should not be afraid of additional rigorous review. We believe it'll lead to the same conclusion."

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Scientists see proposed climate debates as a trap

Climatewire

By: Emily Holden

Published: July 13, 2017

Climate scientists are perplexed by U.S. EPA Administrator Scott Pruitt's plans to challenge their work.

They see it as a trap with no escape: Participating in the critique would lend the minority of researchers who question mainstream climate science an oversized microphone. But refusing the invitation to debate their findings could give the impression they're hiding something or leave skeptics' assertions unopposed.

Pruitt's proposal to launch a "red team, blue team" exercise to debate climate science is causing "collective head scratching," said Kei Koizumi, a visiting scholar in science policy at the American Association for the Advancement of Science.

"Personally, I'm still at a loss," Koizumi said. "If an AAAS member came and said, 'I was invited to serve on an EPA commission, what should I do?' I'm not sure what the answer would be. I'm not sure whether AAAS would have an answer."

Pruitt acknowledges the planet is warming but says he questions how much humans are contributing and whether climate change is an "existential threat."

Scientists say it's hard to respond to Pruitt when he puts climate change in such black-and-white terms. They hesitate to assign specific values to humanity's role because the numbers would change year to year and be hard to pin down with complete accuracy. But they largely agree humans are the main source of global warming.

They worry that central message might get lost in debates.

"The degree to which human influence is impacting the climate, well, that's an open scientific debate. Whether human activities are contributing to climate change — that is not really a scientific debate anymore," Koizumi said. "It's unclear what this EPA exercise is trying to get at. Is it trying to quantify better the human influence on climate change? Our indications are that the answer is no."

Must-see TV?

Scientists have been reeling since Pruitt suggested the "red team, blue team" process and later said he wanted to televise the debate (*Climatewire*, June 30).

"You cannot fight a lie live on television," said Brenda Ekwurzel, senior climate scientist and the director of climate science at the advocacy group Union of Concerned Scientists.

Framing the issue as a debate "gives us pause," she said. "It leaves the public thinking they don't know what they're talking about, stay calm and carry on."

Gina McCarthy, a former EPA administrator under President Obama, said Pruitt should stop acting like "the coach of a debate team."

"If he wants to learn more about climate science, I suggest he ask his career staff," she told E&E News. "If he doesn't feel comfortable hanging around with them, he could read the latest endangerment finding for a robust summary of the science. That would get him up to speed with the 97 percent of climate scientists and the overwhelming majority of Americans who understand that it's time to stop denying or questioning the science and start taking action to protect our kids' future."

Environmental advocates mocked Pruitt's suggestion.

"What is Pruitt thinking, something like 'The Apprentice'? Or more like 'Game of Thrones'? Winter is (not) coming," said David Doniger, director of the climate program at the Natural Resources Defense Council.

"A genuine process of scientific peer review would definitely not be 'must-see TV,'" he added.

Tom Reynolds, who led EPA's communications shop during the Obama administration, said televised climate debates would be the equivalent of "the Scopes Trial meets 'Survivor.'"

Susan Joy Hassol, director of the nonprofit Climate Communication, said, "Would you have a debate on whether smoking causes lung cancer or whether HIV causes AIDS?"

'Outside the box'

But beyond enraging the climate experts, Pruitt's idea has left many scrambling to figure out how they might respond if he and his allies follow through.

Science organizations are working to build public support and understanding of their work and to combat individual claims. But they don't know how to prepare for an official government program aimed at finding uncertainty in climate science.

Koizumi says Pruitt's idea is completely "outside the box" and "not within the community's vocabulary."

Leaders at AAAS, as well as the American Meteorological Society and the American Geophysical Union, have chatted only informally about Pruitt's initiative, Koizumi said.

When Energy Secretary Rick Perry last month suggested carbon dioxide doesn't cause climate change, AMS sent him a letter charging that he lacks a "fundamental understanding of the science."

Science societies also formally endorsed the March for Science in April.

Last year, groups aimed at defending science more broadly started popping up, too.

One of them, 314 Action, is a nonprofit 501(c)(4) that is "committed to electing more [science, technology, engineering and math] candidates to office, advocating for evidence-based policy solutions to issues like climate change, and fighting the Trump administration's attacks on science."

The grass-roots organization 500 Women Scientists, launched after the November election, pledges to engage more people in an "inclusive scientific community."

But those groups aren't necessarily positioned to fight Pruitt's red team one on one.

Communication tactics

Polling suggests Americans are mostly on the side of climate scientists, even as Pruitt, Perry and President Trump call for more debate.

Seventy percent of Americans believe climate change is happening, and 58 percent believe it is caused by human emissions, according to the Yale Program on Climate Change Communication (*Greenwire*, July 5).

But fewer, 45 percent, worry "a great deal" about climate change. When polling drills down deeper, people often view climate change as a problem that won't need to be solved for years.

That's where climate communication gets tricky.

"Not every scientist is a good communicator. Not every scientist should be communicating. Some of them are introverts and should be introverts," said Missy Stults, a research fellow and doctoral student at the University of Michigan.

The administration, on the other hand, "is very, very good at speaking to people about things they value in very specific terms," Stults said.

"We've relied on facts for a really long time and not gotten to values," she added.

Ellen Stofan, the former chief scientist for NASA, said there is "an increasing fear and awareness on the part of the scientific community that the public has become skeptical of science writ large, whether it's climate change or vaccination."

Stofan said some scientists are reframing climate change to make it more palatable and approachable to people who are inclined to reject the idea, while others are outraged at that strategy.

Jonathan T. Overpeck, director of the University of Arizona's Institute of the Environment, said Pruitt will only inspire scientists to work harder to inform people of the risks of climate change.

"Scientists aren't going to sit around and let him get away with this," he said. "It'll just drive a lot more efforts to communicate clearly what the real science says and try to explain it in terms that people in the public can understand and engage more."

Overpeck said while some scientists have always tailored the language in their research proposals in order to suit specific audiences, it would be "abhorrent" to "pull punches" now for the sake of funding.

"Here we are sitting on a huge time bomb, which is already starting to explode," he said. "Not to talk about it, to me, is some kind of malpractice."

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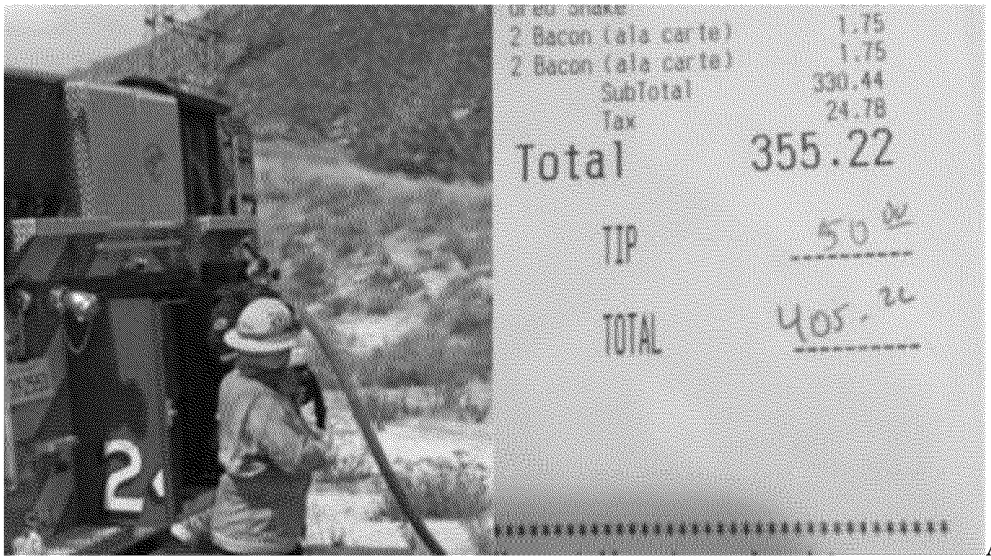
Mystery woman treats 25 firefighters to dinner

CNN

By: Alexandria Larkin

Published: July 12, 2017



A mystery woman picked up the check for 25 hungry California firefighters who had gone to a restaurant after a full day battling a wildfire.

The anonymous benefactor paid $355 for food, plus $50 tip, and got a $100 gift card to buy dessert for the next round of arriving firefighters.

The members of the Colton Fire Department had been fighting the La Cadena fire in La Loma Hills from noon to 8 p.m. on Saturday, before heading to a local Denny's for a meal.

Fire department Public Information Officer Capt. Tom DeBellis told CNN the woman apparently approached the counter and said she "wanted to pay for the firefighters' meals, but didn't want to be recognized.

"The waitstaff told the firefighters, but by that time she was already gone."

Colton Fire Department Chief Tim McHargue was at the restaurant at the time, and said he "felt bad that he couldn't say thank you."

McHargue said he hopes the mystery woman hears how grateful the firefighters are -- through social media posts or news coverage.

"It boosts morale," DeBellis said. "People normally bake cookies, make sandwiches, or give us sodas or cold water, as thanks for the guys' hard work. The guys really appreciate it."

The department has fought 15-20 wildfires just this week amid high temperatures and heavy humidity. "We're not used to it!" Debellis joked.

Civilians have bought meals for firefighters in the department in the past, DeBellis said, but "never to this level of generosity."

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To: Gibson, Benjamin[gibson.benjamin@epa.gov]; Gray, Stuart[Gray.Stuart@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Perlmutt, Lars[perlmutt.lars@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]; Spangler, Matthew[Spangler.Matthew@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Sutton, Lisa[Sutton.Lisa@epa.gov]; Vetter, Cheryl[Vetter.Cheryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Johnson, Yvonne W
Sent: Wed 6/21/2017 5:18:40 PM
Subject: News Clips – June 21, 2017

News Clips – June 21, 2017

Air News

Π□□□□□□□□ Court nixes enviros' bid to keep moving in Wyo. haze case *(Greenwire)*

Oil & Gas

Π□□□□□□□□ Maura Healey fighting Scott Pruitt's stay of EPA rule on emissions *(Boston Globe)*

Budget & Staffing

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Other News

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Π□□□□□□□□ ORD's New Deputy Expected To Lead Office's Overhaul, BOSC Selections *(Inside EPA)*

Π□□□□□□□□ AP poll: Few agree with Trump move to ditch Paris accord *(AP)*

Opinion

Π□□□□□□□□ Some in media remain bothered by Pruitt's relationship with energy industry *(The Oklahoman)*

…And in Happier News

Π□□□□□□□□ 4 escaped wolf pups from Durham's Museum of Life and Science found *(WTVD)*

On this day in 1788, the U.S. Constitution comes into effect when New Hampshire is the 9th state to ratify it

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Court nixes enviros' bid to keep moving in Wyo. haze case

Greenwire

By: Sean Reilly

Published: June 20, 2017

A federal appellate court has again rebuffed environmental groups that want to keep forging ahead with a legal challenge to U.S. EPA's regional haze reduction plan for Wyoming.

In a ruling yesterday, a two-judge panel on the 10th U.S. Circuit Court of Appeals turned down the bid by the Powder River Basin Resource Council and two national environmental groups seeking to lift a stay on their share of the consolidated litigation over the 2014 plan. The court had imposed the stay last month to allow a settlement with another challenger, the Basin Electric Power Cooperative, to take effect (*Greenwire*, May 18).

The Powder River council and the other groups, arguing that the deal's implementation could take two years, had asked the court to meanwhile let them proceed separately with their suit. But

they hit a wall of opposition from EPA and the state of Wyoming, as well as power producers Basin Electric and PacifiCorp, which contend that the rival lawsuits are so entangled in overlapping issues that they can't be split up.

EPA's regional haze program, dating back to 1999 in its current form, sets a goal of restoring pristine views to 156 national parks and wilderness areas by 2064.

Environmentalists say that the 2014 Wyoming plan doesn't go far enough in cutting pollution from coal-fired power plants and oil and gas industry operations; the state, allied with Oregon-based PacifiCorp and Basin Electric, based in North Dakota, counter that it goes overboard.

In yesterday's ruling, the two-judge panel said it had carefully considered the environmental groups' motion, but otherwise offered no explanation for the decision.

"We're still evaluating our options," Jenny Harbine, an Earthjustice attorney representing the groups, said in a brief interview when asked whether they would continue to pursue the bid.

The litigation, which dates back to 2014, had already been slowed by the amount of time needed to reach the Basin Electric settlement. Early last year, the court had rejected a previous attempt by the same three organizations, which include the National Parks Conservation Association and the Sierra Club, to move ahead separately.

In a filing last week, the groups wrote that EPA, the state and the power producers had failed to provide "any legitimate basis" for denying their motion for separate treatment.

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Maura Healey fighting Scott Pruitt's stay of EPA rule on emissions

Boston Globe

By: Travis Andersen

Published: June 20, 2017

Massachusetts Attorney General Maura Healey is fighting efforts by Scott Pruitt, the head of the US Environmental Protection Agency, to "halt regulation of leaks of greenhouse gas emissions and other harmful air pollutants" tied to the oil and gas industry, her office said Tuesday.

In a statement, Healy's press team said she lead a coalition of 14 attorneys general and the city of Chicago Tuesday in filing a motion to intervene in a federal lawsuit brought by the Clean Air Council against Pruitt.

The motion was filed in a federal appeals court in Washington, D.C.

According to the news release, at issue is "the EPA's unlawful administrative stay of a rule, finalized in 2016 (the 2016 Rule), that would prevent emissions of thousands of tons of the potent greenhouse gas methane," and other pollutants "in facilities constructed after September 2015."

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EPA plans to buy out more than 1,200 employees this summer

The Washington Post

By: Brady Dennis

Published: June 20, 2017

The Environmental Protection Agency plans on shedding more than 1,200 employees by early

September through buyouts and early retirements, as part of a broader push by the Trump administration to shrink a government entity the president once promised to eliminate "in almost every form."

The departures would amount to about 8 percent of the current 15,000-person workforce of the EPA, where a hiring freeze also remains in effect. The Trump administration has proposed a 31 percent cut to its budget, the largest percentage reduction of any agency and one that could mean several thousand job losses.

In an email to EPA union leaders this week, an agency attorney said the EPA plans to make buyout offers to as many as 1,228 employees. "As of now," the message read, "the last effective date for employee separations is September 2, 2017, so any applications would have to be in before that date."

The agency's buyout plans will need approval by the Office of Personnel Management and the Office of Management and Budget, which officials hope to receive later this month. "However, in the meantime, we are seeking to work together to reach an agreement over procedures that we will utilize for this next round — should it be approved," the email stated.

The EPA plans to begin holding retirement training webinars for employees each Tuesday and Thursday through the end of July.

Last month, officials disclosed plans to set aside $12 million for buyouts and early retirements this year, as part of an effort to begin "reshaping" the agency's workforce under the Trump administration.

"Streamlining and reorganizing is good government and important to maximizing taxpayer dollars. This includes looking at developing opportunities for individuals to retire early," EPA spokeswoman Liz Bowman said at the time. "It's a process that mirrors what the Obama administration EPA did about four years ago, to ensure that payroll expenses do not overtake funds used for vital programs to protect the environment."

Last week, in a budget hearing on Capitol Hill, EPA Administrator Scott Pruitt defended the push to shrink the agency.

"With respect to the proposed cuts on personnel, that is something that we plan to achieve through attrition, continuation of the hiring freeze and the initiation of buyouts," Pruitt said. "About 20 percent of the agency is eligible for retirement today. That's going to increase over the next several years."

It remains unclear how the EPA plans to undertake more than 1,200 buyouts without spending more than $12 million. In 2014, according to an inspector general's report, the agency paid $11.3 million in incentives to get 456 employees to voluntarily leave. It shelled out an additional $4.9 million in annual leave payouts, for a total of $16.2 million.

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EPA just gave notice to dozens of scientific advisory board members that their time is up

The Washington Post

By: Chris Mooney and Juliet Eilperin

Published: June 20, 2017

The Environmental Protection Agency has given notice to dozens of scientists that they will not be renewed in their roles in advising the agency, continuing a scientific shake-up that has already triggered resignations and charges from some researchers that the administration is politicizing the agency.

Members of the EPA's Board of Scientific Counselors (BOSC) whose terms end in August will not see them renewed, according to an email sent to members and obtained by The Washington Post, though they can reapply for their posts. Moreover, five meetings of subcommittees of the

board, planned for the late summer and the fall, will now be canceled because of lack of membership. They will be held once the board is reconstituted, according to EPA officials.

"It effectively wipes out the BOSC and leaves it free for a complete reappointment," said Deborah Swackhamer, the current chair of the board's executive committee and an emeritus professor of environmental health sciences at the University of Minnesota.

That executive committee has only five remaining members, after a number of members whose terms were up earlier this year were not renewed. The board also has five subcommittees, but according to an email from Swackhamer, "with the latest information from EPA, 38 of the 49 remaining subcommittee members will not be renewed at the end of August."

EPA officials said the fact that many advisers' terms were ending provided an opportunity to reach out to a broad array of applicants and draw on their expertise.

"EPA is grateful for the service of all BOSC members, past and present, and has encouraged those with expiring terms to reapply," said agency spokeswoman Amy Graham. "We are taking an inclusive approach to filling future BOSC appointments and welcome all applicants from all relevant scientific and technical fields."

The announcement, sent from acting assistant administrator of the Office of Research and Development Robert Kavlock, said that members can reapply but have a June 30 deadline to do so.

Members are appointed to three-year terms, but they are traditionally renewed for another term if they choose to continue serving. Officials in the previous administration had told several advisers they should expect to serve longer than one term, but that is not dictated under board rules.

"To be renewed for a second term is usually anticipated, expected, and the only time you might not serve a second term is if your expertise was no longer needed," Swackhamer said.

The EPA's Board of Scientific Counselors advises the agency's Office of Research and Development, which is being targeted for extremely deep budget cuts, on whether the research it does has sufficient rigor and integrity and addresses important scientific questions.

Peter Meyer, an economist with the E.P. Systems Group who had already resigned publicly from the board's sustainable and healthy communities subcommittee to protest the ongoing shake-up, said that he and his colleagues had thought they would be staying on.

"We were told quite explicitly by the leadership of the sustainable and healthy communities group … that our assignment was a four-to-five-year assignment," Meyer said. "That was what we were told at our first meeting. That produces an assumption that you're going to get reappointed so that you can complete the job."

Scott Openshaw, a spokesman for the American Chemistry Council, which represents the chemical industry, said in an email that the turnover would address his group's and others' "concerns in the past that EPA advisory boards did not include a diversity of views and therefore frequently presented a biased perspective on issues before them."

"All stakeholders, industry and consumers, benefit by ensuring regulations are based on the best science available," he added. "We are hopeful Administrator Pruitt's actions will help to ensure regulatory decisions are based on the highest quality science, enhance accountability, create greater balance, more transparency and fewer conflicts of interest on EPA advisory boards."

Meyer, however, said that he fears the goal is to clear out the membership of these boards so that new members can be appointed, perhaps those who are more favorable to the communities actually being regulated by the EPA.

Elena Craft, a researcher based at the advocacy group Environmental Defense Fund who serves on a subcommittee of the board focused on air, climate and energy, also said she received the notice Monday.

"It's just, yet another example of the administration's disregard for independent scientific counsel, on issues that are critically important to the nation," Craft said. She added that her subcommittee was scheduled to meet in September, but that's now off.

"This gives me a great deal of concern about the erosion of science in this administration," said Robert Richardson, an ecological economist and associate professor in Michigan State University's Department of Community Sustainability, who co-chaired one of the BOSC subcommittees and was let go earlier this spring. "It's hard to understand the rationale behind a decision like this. I understand they might simply want to repopulate [the board] with people of their own choosing. However, this could also be a way of just weakening advisory boards, of diminishing their role by not replacing members."

Richardson said other colleagues had contacted him this week about the news that the EPA would not renew the terms of dozens of additional scientific advisers to the agency.

"I don't think anybody is terribly surprised," he said. "[Trump officials] have been clear that they intend to wipe all these slates clean. They want no continuity from any decisions that were made by the previous administration, even nonpolitical decisions."

Richardson said serving as an effective outsider adviser to the EPA comes with a "steep learning curve" and that over the years he and his colleagues had worked hard during their years on the board to build a rapport with EPA's Office of Research and Development and to serve the agency effectively.

"All that knowledge will be lost," he said.

Pruitt has taken a deep interest in what scientific questions the EPA should be exploring in the coming years, according to his aides, and a transformation of the board could make a shift in focus easier to carry out. Many Republicans have criticized the agency for devoting too much of its resources toward climate change in recent years, as opposed to more traditional environmental threats.

This appears to be just the start of advisory committee changes at the EPA. The agency's Science Advisory Board (SAB) and Clean Air Scientific Advisory Committee (CASAC) also likely will be changed in the future.

One senior administration official, who spoke on the condition of anonymity to discuss ongoing conversations, said that a segment of the Scientific Advisory Board rotates off each year and the agency will issue a Federal Register notice in the next couple of weeks that will invite applicants to replace those members whose terms are expiring.

"EPA is currently deliberating next steps for the SAB and CASAC," said one senior agency official, who spoke on the condition of anonymity because no final decision has been made.

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ORD's New Deputy Expected To Lead Office's Overhaul, BOSC Selections

Inside EPA

By: Maria Hegstad

Published: June 20, 2017

Richard Yamada, the new deputy chief of EPA's Office of Research and Development (ORD), is expected to play a key role overhauling the office and selecting new members for its Board of Scientific Counselors (BOSC), the panel that reviews ORD's research agenda, as he is expected to be the office's political leader until a permanent assistant administrator is nominated and confirmed, sources say.

Yamada, a mathematician, was a professional staffer on the House Science, Space and Technology Committee for four years before joining EPA, according to his LinkedIn page. His appointment to ORD's deputy assistant administrator slot does not require Senate confirmation.

EPA's acting ORD chief Bob Kavlock, a career official who will remain as the office's acting assistant administrator, informed ORD staff last week that Yamada is joining the office, agency sources say. His appointment was first reported by *Bloomberg BNA*.

An agency source says that as the newly installed No. two in ORD, and the office's only political appointee, Yamada will have broad influence in ORD decisions that are sent to upper levels of EPA political management, including recommendations on new members of BOSC, the panel that reviews ORD's research agenda that EPA is reconstituting.

"There is a very intensive program of briefings scheduled for him," the source says of Yamada. "Quite a bit of attention is being paid to the administrator's priorities, supporting regulatory priorities and also the assumption is being made that anything that goes out of ORD to the administrator, they'll be looking to his view."

Yamada's appointment comes as EPA Administrator Scott Pruitt has already made clear that he and other administration officials are planning a significant overhaul for ORD. Among other things, the administration is proposing to slash ORD's budget by more than 45 percent, a reduction that officials have said will be implemented in part by eliminating climate research.

In addition, EPA's budget request has signaled the agency plans to scale back ORD's Integrated Risk Information System (IRIS) database, while giving it a role assessing substances under the revised toxics law and other mandatory regulatory programs.

And Kavlock June 19 informed members of BOSC that the agency is canceling any remaining meetings slated for 2017 while it considers nominations for new members. The action came weeks after Pruitt declined to reappoint 12 members whose first terms were slated to expire this year despite agency staff having assured at least nine of those members they would be reappointed to second terms.

The agency source says Yamada will play a key role because Pruitt, formerly the Oklahoma attorney general, "needs a science person in place" to advise him on decisions such as who to appoint to BOSC.

A second agency source suggests that Yamada, who has been given the novel title of deputy assistant administrator for ORD, will operate at EPA as did Tom Burke, the last ORD chief of the Obama administration. The Senate never confirmed Burke, but Burke was appointed as an ORD deputy and ran ORD de facto.

Kavlock's June 12 email to ORD staff announcing Yamada's appointment reinforces these views. "Richard will report to me in my capacity as acting AA, advise the ORD senior leadership on overall program goals, objectives, policies, strategies and managerial approaches, and program plans; represent as appropriate and requested, the Administrator and Deputy Administrator at various task force, panel and committee on science and operational program activities related to the development of Agency science policies and regulations; carry out projects on behalf of the EPA Administrator and Deputy Administrator; and establish contacts at the highest levels of governmental and non-governmental organizations in order to develop information, evaluate findings and prepare reports," Kavlock writes.

New BOSC Members

Among Yamada's key tasks will be selecting new members for BOSC, the advisory committee established by a former ORD chief in 1996, which reviews ORD's multi-year research plans and their execution by ORD scientists.

Unlike other EPA advisory committees, it was not created by statute. It operates through its executive committee and five subcommittees, each assigned to an ORD research program.

Pruitt made headlines last month when he decided not to renew the terms of 12 of the 18 executive committee members whose first terms were expiring. But EPA, in a May 25 *Federal Register* notice, requested nominations for new BOSC members. The notice indicated that EPA will consider former BOSC members who were not automatically renewed, and set a June 21 deadline for nominations.

Nevertheless, Pruitt's decision drew strong criticism from Deborah Swackhamer, the retired environmental chemistry professor who currently chairs the board. She told a House Science

Committee panel last month that the agency's decision not to reappoint the board's members is part of a broader pattern of "marginalization of science" by the Trump administration that goes beyond EPA, though she conceded that the move was lawful.

In an email to *Inside EPA*, Swackhamer said she received an email June 19 informing her of the changes to BOSC. She noted that the administration will need to select dozens of new members.

Given "the latest information from EPA, 38 of the 49 remaining subcommittee members will not be renewed at the end of August. This leaves a total of 11 remaining subcommittee members," she says. Only one of the subcommittees has more than one or two members, with five, and none has a chairman or vice chairman, she adds.

"The Executive Committee has only three remaining members -- the chair (me) and two others, who are also members of the subcommittees. So the total BOSC membership, including its subcommittees, is now only 12," Swackhamer says.

Swackhamer says that while each BOSC subcommittee had been scheduled to meet between August and November, all of these meetings were canceled and there are no scheduled meetings of the executive committee.

'Balanced Approach'

Yamada earned his Ph.D. in applied mathematics from Cornell University in 2007, according to Cornell's website. Prior to joining the House Science committee staff, he was an assistant math professor at the University of Michigan and a postdoctoral Fellow at Duke University's Center for Public Genomics, according to Duke's website. At Duke, "he worked on developing quantitative frameworks to use to evaluate the role of risk in policy-related problems."

Yamada's dissertation was on "Quantitative Models of Transcriptional Elongation," according to his web page at Michigan.

Yamada first worked on the Hill in 2011 as an American Mathematical Society congressional fellow, working in the office of Sen. John Boozman (R-AR), according to Duke's site.

Yamada later drafted an opinion article for the society's newsletter, titled "5 Lessons I Have Learned," where he made the case that policymakers should ensure balance funding for basic and applied research.

Noting wide bipartisan support for science funding generally, he warned of a period of tight budgets when science funding "will not be immune to deep and debilitating cuts, so our community must avoid complacency."

He urged the society's members to "frame science not as a luxury but as something essential, with documented and significant return on investment for our nation. The case for basic science funding is even more imperative, given the tendency by lawmakers to put a lower priority on basic research than on applied research, which they believe will translate into immediate economic growth. A balanced approach must be emphasized."

But Yamada also warns that "the scientific community must be willing to change the existing culture of science to adapt to the new fiscal reality that emphasizes spreading funding opportunities for younger investigators, increased scrutiny for established investigators with significant grant support, and the quality rather than the quantity of publications."

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AP poll: Few agree with Trump move to ditch Paris accord

Associated Press

By: Michael Biesecker and Emily Swanson

Published: June 20, 2017

WASHINGTON (AP) — A new poll finds that less than a third of Americans support President Donald Trump's decision to withdraw from the Paris climate accord, with just 18 percent of respondents agreeing with his claim that pulling out of the international agreement to reduce carbon emissions will help the U.S. economy.

The survey conducted by the Associated Press-NORC Center for Public Affairs Research this month found a slim majority — 52 percent — worry that withdrawing will hurt the economy. Another 27 percent think it won't have an impact either way.

The poll found two-thirds of Americans think climate change is happening, while about 1 in 10 think it's not. The remaining quarter aren't sure.

Seven in 10 Americans think it's a problem that the U.S. government should be working to address.

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Some in media remain bothered by Pruitt's relationship with energy industry

The Oklahoman

By: The Editorial Board

Published: June 21, 2017

THE disdain that some in the media have for President Trump and members of his administration is evident regularly. Recent coverage related to EPA administrator Scott Pruitt provides an example of interest to locals because of Pruitt's Oklahoma ties.

A former state senator, Pruitt won election as attorney general in 2010, and was easily re-elected

in 2014. From the beginning he made it clear he would actively oppose Obama administration overreach, particularly regulations that had the potential to harm businesses and individuals.

The administration kept Pruitt's "federalism" unit busy, as his office filed at least 14 lawsuits against the Environmental Protection Agency. The most high-profile of those were fights against the Clean Power Plan, which mandated cuts that all states had to make to greenhouse gas emissions, and the Waters of the United States rule, which greatly expanded the EPA's control over bodies of water such as ponds and creeks. The U.S. Supreme Court eventually stayed the CPP and an appeals court put the water rule on hold.

Pruitt's nomination as EPA administrator drew swift and strident opposition from environmentalists and some in the media who said Trump's confirmation would essentially be placing the fox in charge of the henhouse. Both sectors remain upset.

An Associated Press story from Washington last week about emails Pruitt sent and received as attorney general did what it could to further establish Pruitt as a minion for the oil and gas industry — which environmentalists see as dead set on ruining the earth as we know it.

The AP, a wire service used by media outlets around the world including *The Oklahoman*, said the emails "underscore just how closely" Pruitt "coordinated with fossil fuel companies" as Oklahoma's AG, "a position in which he frequently sued to block federal efforts to curb planet-warming carbon emissions."

That's quite an opening paragraph. Pruitt didn't just work with energy companies while attorney general — he worked "closely" with "fossil fuel companies" (the ultimate bogey men) to essentially keep global warming from abating.

The AP report went on to note that some of Pruitt's emails involved the Domestic Energy Producers Alliance, a trade group that, as AP pointed out, includes "billionaire Harold Hamm, a political backer of Pruitt and a frequent adviser to President Donald Trump."

We've always found it interesting how some in the media are quick to identify conservatives

(such as Hamm) as “billionaires.” The Koch brothers, for example, aren't just supporters of conservative (and other) causes. They're “billionaire” supporters. The tag is intended to touch a nerve with those who have a problem with the "greedy" 1 percent — but only those 1 percent who don't share their worldview.

Pruitt was rightfully criticized for not promptly turning over emails to Democratic senators prior to his confirmation vote earlier this year. And it's possible this latest batch of emails could provide additional fodder for criticism. But the fact Pruitt regularly corresponded and dealt with energy industry officials as attorney general of a state where energy is the No. 1 industry should not be surprising nor should it, by itself, be considered nefarious.

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4 escaped wolf pups from Durham's Museum of Life and Science found

ABC11 – WTVD

Published: June 20, 2017

DURHAM (WTVD) -- Four endangered Red Wolf pups are back where they should be after escaping their den Monday night, at the Museum of Life and Science in Durham.

Three or four pups strayed away from the pack - potentially chewing or tugging through a gate opening in their exhibit according to the museum's communications manager, Leslie Pepple.

"We were able to determine they were most likely somewhere in this wooded campus behind me," Pepple said, pointing toward a large section of the museum's outdoor exhibits that were closed off.

Red wolves are critically endangered, with less than 300 in the world, so the search was on right away, and in an effort to find the pups, the museum closed its train ride.

"They're probably scared," a visiting child said.

"We came over to see the wolves this time, but it will be the next time," the mother of another said.

Signs blocked off the search area.

Folks at the park asked questions about the wolves' whereabouts. Blocked in by the park's perimeter fence, the pups likely hid in the woods near their exhibit, according to museum officials.

That's where three of the four were found Monday night, looking for their parents.

(Credit: Courtney Cawley)

"They are not 100 percent weened, so they would be looking for that food source and the reassurance that comes from their parents," Pepple said.

One remained, and suddenly, staff zipped by around noon, Tuesday - the last pup was found being fed by papa wolf through the new hole in the gate (which has now been re-enforced).

"We're delighted to have all of our pups back and to have the next generation here at the museum," Pepple said.

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To: Gibson, Benjamin[gibson.benjamin@epa.gov]; Gray, Stuart[Gray.Stuart@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Perlmutt, Lars[perlmutt.lars@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]; Spangler, Matthew[Spangler.Matthew@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Sutton, Lisa[Sutton.Lisa@epa.gov]; Vetter, Cheryl[Vetter.Cheryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Johnson, Yvonne W
Sent: Mon 6/19/2017 11:59:36 AM
Subject: News Clips – June 13, 2017

News Clips – June 13, 2017

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Clean Power Plan

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•□□□□□□□□ U.S. Says It Has Seat at Climate Talks—But Is It at Kids' Table? *(BNA)*

•□□□□□□□□ U.S. cities and states want to implement the Paris climate accord goals. It's not that simple. *(Washington Post)*

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Regulatory Reform

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On the Hill

•□□□□□□□□ Dems threaten to stall nominees on congressional requests *(Greenwire)*

•□□□□□□□□ Top Dem accuses EPA of refusing to reply to oversight requests *(The Hill)*

Other News

•□□□□□□□□ Facing Regulatory Uncertainty, ECOS Seeks To Redefine State-Federal Roles *(Inside EPA)*

…And in Happier News

•□□□□□□□□ Local high school valedictorians share their dreams as they walk past graduation *(WTVD)*

On this day in 1866, the U.S. House of representatives passes the 14th Amendment

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OTC States Eye Swift EPA Haze Air Plan Submissions To Serve As Model

Inside EPA

By: Stuart Parker

Published: June 13, 2017

SARATOGA SPRINGS, NY -- Some states within the Ozone Transport Commission (OTC) of Northeast and Mid-Atlantic states are aiming to submit their next compliance plans for EPA's regional haze program by 2018 instead of the agency's delayed deadline of 2021, hoping that their plans will serve as models for other states.

At OTC's June 6 spring meeting here, member states that have "Class I areas," which are national parks and wilderness areas, protected under the haze program stated their determination to stick to the original 2018 deadline for submission of state implementation plans (SIPs) despite EPA's delay. These states are Maine, New Hampshire, New Jersey and Vermont.

The Obama EPA in a Jan. 10 rule overhauled the haze program, which aims to restore visibility to natural conditions in Class I areas by 2064, easing some requirements for states including allowing them to delay by three years submission of the SIPs that detail the emissions controls they will impose on haze sources. The rule, however, also increased the involvement of federal land managers (FLMs) in state planning, and required states to work together on Class I areas they jointly pollute, prompting criticism from some states that view these changes as federal

overreach.

Under the haze program's first phase, states submitted SIPs covering the period 2008-2018 showing how they will reduce visibility-obscuring pollution. Those plans were based largely on the one-time requirement for states to impose best available retrofit technology (BART) to curb emissions at eligible sources, mainly power plants.

The second-phase SIPs, covering the period 2018-2028, will focus on other requirements such as "reasonable progress" goals and long-term strategy. Although EPA has delayed the submission deadline for SIPs until 2021, the second planning period still concludes in 2028.

Speaking on behalf of regional planning organization Mid-Atlantic/Northeast Visibility Union (MANE-VU), which facilitates haze planning in the OTC area, New York air regulator Rob Sliwinski outlined the procedure by which MANE-VU states will prepare their SIPs in accordance with the reformed haze program. MANE-VU includes the OTC-area states with the exception of Virginia: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

OTC's 'Ask'

The states will first consider what actions they will take internally, and in the MANE-VU region. They will then take their "ask" to non-MANE-VU area states that the group's analysis shows contribute to haze problems in the region, which according to Sliwinski's presentation could be as far afield as Texas. Finally, the MANE-VU states will take their planning "ask" to FLMs and EPA for their input, before drafting final SIPs.

The "asks" will take the form of three separate documents. Once the process is established, "we hope it is an example for others to follow," Sliwinski told *Inside EPA* at the event.

According to Sliwinski's presentation, the draft "ask" to states both inside and outside of MANE-VU will involve: operating and optimizing of installed controls such as selective catalytic reduction and scrubbers at power plants year-round; conducting four-factor analysis of

reasonable progress goals, including costs of controls, time necessary for compliance, energy and other impacts and remaining equipment life; completing implementation of a 2007 low-sulfur oil rule within the MANE-VU states; achieving 90 percent sulfur dioxide (SO2) reductions at sources that have not already done so; updating permits and rules to reflect already achieved rates of SO2, nitrogen oxides and fine particulate matter; performing four-factor analysis on units implicated in worsening air pollution on high electric demand days in MANE-VU states only; and initiating measures to increase energy efficiency and implement combined heat and power generation at industry sources.

The ask document to FLMs and EPA will ask FLMs to consult with MANE-VU Class I states when scheduling prescribed burns; ask EPA to develop measures that will further reduce emissions from heavy-duty road vehicles; and ask EPA to ensure that MANE-VU states' "asks" are addressed in the SIPs of states contributing to haze in the region prior to approval.

Haze Planning

Regulators present at the meeting said that MANE-VU states considered that the benefits of halting haze planning because of the SIP submission delay until 2021 would in fact be outweighed by additional costs, hence their decision to continue on the earlier schedule.

Other states are, however, challenging the revised consultation procedures contained in the haze rule in the U.S. Court of Appeals for the District of Columbia Circuit suit *State of Texas, et al. v. EPA*.

Environmentalists are intervening in the suit to defend the rule, but also to challenge aspects of it they dislike, including EPA's requirement for states to use 2000-2004 data to calculate baseline emissions, which environmentalists say results in weak reduction mandates, and also the agency's definition of wildfires as "natural events" exempt from regulation, even if caused by people.

In general, OTC-area states have few problems meeting regional haze reductions, due to a significant reduction in SO2 emissions in recent years. However, in Western areas home to major Class I areas such as Grand Canyon National Park, haze planning challenges are likely to be much tougher than in the East. Nonetheless, the OTC/MANE-VU states' plans will be the first

submitted under the new haze rule, assuming it survives the ongoing D.C. Circuit challenge, and as such will provide a blueprint that others can either adopt or modify, Sliwinski said.

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EPA fights green groups' bid to pursue Wyo. haze suit

Greenwire

By: Sean Reilly

Published: June 13, 2017

U.S. EPA is again siding with the state of Wyoming and power producers to oppose a bid by environmentalists for separate treatment of their lawsuit challenging haze reduction regulations.

In a filing yesterday with the 10th U.S. Circuit Court of Appeals, EPA attorneys argued against letting the Powder River Basin Resource Council and two national environmental groups move ahead with their challenge to a 2014 regional haze rule for Wyoming.

The groups are contesting the rule on the grounds that it doesn't do enough to cut pollution from coal-fired power plants and the oil and gas industry. The state, allied with Basin Electric Power Cooperative and PacifiCorp, counters that it is overly strict.

Last month, the 10th Circuit froze all proceedings in the consolidated litigation to allow a settlement with Basin Electric to take effect. The environmentalists, arguing that the deal's implementation could take two years, have asked the court to let them meanwhile proceed with their challenge (*Greenwire*, June 5). In yesterday's response, however, EPA lawyers argued that the lawsuits are in effect too interwoven to split them up.

If the 10th Circuit approves the environmentalists' request, the court and challengers "could be

required to litigate overlapping or related aspects of the final rule on separate occasions," they wrote. Also objecting to the environmentalists' motion are the state and the two power producers. As of this morning, the court had not ruled on the motion, according to online records.

In early 2016, however, the court rejected a previous attempt by the same three environmental groups, which also include the Sierra Club and National Parks Conservation Association, to forge ahead independently with their suit. EPA, along with the other litigants, had opposed that bid, as well.

The regional haze program, dating back to 1999 in its current form, aims to restore natural visibility to 156 national parks and wilderness areas by 2064.

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EPA Air Pollution Model Gets Inspector General Scrutiny

Bloomberg BNA

By: Andrew Childers

Published: June 13, 2017

The EPA's process for approving the air pollution modeling methods it recommends for state regulators is slated for review by the agency's inspector general.

The inspector general will evaluate the use of the air quality dispersion models that states use to draft plans to implement federal air pollution requirements or evaluate air pollution permit applications from industry groups. In particular, the Inspector General said it would review use of the American Meteorological Society/EPA Regulatory Model (AERMOD), according to the project notification released June 12.

The most recent update to AERMOD was "a long and arduous process that caused a lot of frustration from a state perspective," Clint Woods, executive director of the Association of Air Pollution Control Agencies, told Bloomberg BNA. The EPA's approval of the updated model was delayed, which left states waiting for the tool necessary to show they were complying with air quality standards for sulfur dioxide, he said.

The inspector general's evaluation will include peer reviews and other analyses of AERMOD.

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Utility Group Suggests CPP Replacement Plan As EPA Advances Rollback

Inside EPA

By: Abby Smith

Published: June 12, 2017

Even before EPA decides whether or how to replace the Obama-era Clean Power Plan (CPP), a coalition of 13 electric utilities that serve 25 states is pitching a replacement to the power plant greenhouse gas rule, with an attorney representing the group describing the plan as a more flexible and effective alternative than the rule EPA is poised to repeal.

Bill Bumpers of Baker Botts, who represents the Coalition for Innovative Climate Solutions (CICS), says EPA faces legal risks if it declines to replace the CPP and is calling for a power plant GHG rule that gives states greater flexibility to choose compliance plans based on their resource mixes and individual authorities than the current rule.

The group is suggesting EPA develop guidelines for states based on substantive and procedural criteria that the agency would then use to judge state plans. It is not clear, however, how the coalition would envision EPA setting GHG targets under such a rule, given that it has sharply criticized the agency's target-setting process for the CPP.

The coalition's suggestion for a replacement rule comes as EPA on June 8 sent a draft proposed CPP rollback rule to the White House for interagency review. The plan will provide a legal justification for revoking the CPP and a draft economic analysis.

Sources tell *Inside EPA* those items were outlined in a memo reportedly drafted by Justin Schwab, EPA's deputy general counsel and a member of the "beachhead" team who does not need Senate confirmation.

But EPA Administrator Scott Pruitt has not yet revealed whether the agency plans to replace the CPP, telling a May 24 conference that is "yet to be determined." Pruitt suggested the agency was in no particular rush to decide the issue and said he is planning to review EPA's Clean Air Act authority.

It's "a fair question [that] has to be asked and answered" with respect to stationary source GHGs, he said. "What are the tools in the toolbox?" Pruitt added that EPA has "struck out twice" on that question -- first when its GHG tailoring rule was narrowed by the Supreme Court and then when the high court stayed the CPP in February 2016.

Nonetheless, industry attorneys say EPA faces a legal risk by repealing the CPP without a replacement plan. While there is "no ticking clock to replace it, at some point someone will sue," says Jim Rubin of Dorsey & Whitney, who worked at the Department of Justice's environment division for 15 years.

Bumpers echoed this sentiment. "There is a core legal obligation for the agency to promulgate a regulation under [Clean Air Act section] 111(d)," he tells *Inside EPA*. "The repeal has to be followed with a replace, or there will be litigation."

The utility coalition has spoken with congressional staff and agency appointees. "They're interested," Bumpers says.

He says the coalition will also “reach out to EPA” with its suggestion for a replacement rule, but he cautions that the agency doesn't “really have a plan in place” yet regarding if and how it would replace the CPP. In part, that is because the agency still lacks many top political appointees, including deputy administrator and air chief.

“There are clearly legal limitations on what the administration can do because the [CPP] is final,” Bumpers says. He notes the rule has been stayed, but EPA “can't leave it in limbo forever. The court won't allow that.”

'Better Process'

CICS, the coalition he represents, includes 13 utilities from across the country: Ameren Corp.; Avista Corp.; Entergy; Great River Energy; Idaho Power; NorthWestern Energy; Portland General Electric Company; Puget Sound Energy; PPL Corp., including affiliates LG&E and KU; Public Service Company of New Mexico; Salt River Project Agricultural Improvement and Power District; Westar; and Xcel Energy.

When the Obama administration was developing the CPP, rather than opposing any section 111 GHG regulation, CICS outlined an alternative approach that is similar to the plan the group is now pushing to the Trump EPA as it decides whether and how to replace the CPP.

He says the CICS' alternative would give states greater flexibility and would avoid EPA exceeding its air act authority, which he argues the CPP did.

Bumpers' group envisions EPA continuing to regulate under section 111, which requires the agency to develop “guidelines” that states must follow when crafting compliance plans. Those guidelines reflect the agency's determination of the “best system of emission reduction” -- essentially setting a baseline for GHG cuts that states must meet while also considering a host of state- and plant-specific factors.

States, on the other hand, have the power to develop plans that include “standards of

performance" for plants that would be included in air permits. EPA must approve state plans, but the CICS utilities say the agency can only disapprove a plan under limited circumstances and also would face a high bar to impose a federal implementation plan.

"The authority granted [to EPA] under [section] 111(d) is quite narrow," Bumpers says. "But the states have a lot of flexibility. This program is supposed to be state-driven." He notes that section 111 merely sets up a "procedure by which the states develop plans and submit them for approval."

It is not clear if the utilities envision the agency developing state-specific GHG emission targets at all or whether it would only outline a series of considerations for states to address as they make best efforts to reduce GHGs.

For example, CICS' comments on the proposed CPP fault the agency's method of setting state targets -- which considered a range of strategies to reduce emissions from throughout the power sector. But it also suggested that the proposed rule's overall GHG goal of reducing the sector's emissions by 30 percent by 2030 might somehow factor into the agency's review of state plans.

In the interview, Bumpers did not directly respond to the issue of whether or how the agency would craft state-specific targets in the utilities' envisioned rule.

But he said the coalition's preferred strategy would not establish an "inside the fence" standard, which would base targets on heat rate improvements at individual power plants. Bumpers says a "better process" would develop general guidance for states to consider as they develop compliance plans.

Under that flexibility, states could craft plans that best fit their resource mix and regulatory capabilities. For example, a state with large energy efficiency opportunity could pursue strengthened efficiency standards to comply. Or a state with large solar potential could boost renewable energy.

EPA could even say, "If you wanted to try to put together a multi-state trading program, we'll

support it, but we can't force it," Bumpers says.

Bumpers also suggests it could be challenging for EPA to promulgate an "inside the fence" CPP alternative, focused only on heat rate improvements. He says the Obama EPA "struggled mightily" to set a heat rate standard. "You've got a wide variety of heat rates available that are achievable at power plants across the country."

He says EPA could try to develop heat rate subcategories to account for various types of plants. But "that is almost unworkable," he adds, noting EPA would have to decide tough questions as to how many subcategories to create and what would happen if a plant, particularly an older facility, cannot meet the standard.

"The Obama administration was in a very tough place. They wanted to do climate change appropriately and received little cooperation from Congress, so they directed EPA to do the most they could under this narrow provision," Bumpers says. But he argues the CPP "wasn't legal. I thought [it] was frankly a clear example of regulatory overreach."

Prior Comments

CICS' December 2014 comments on the proposed CPP offer a signal of how the group would move forward on any CPP replacement.

Predominantly, CICS faulted the Obama EPA's determination of specific emissions standards for the states using four proposed "building blocks": heat rate improvements, fuel switching to natural gas, fuel switching to renewable energy and energy efficiency. EPA in the final rule dropped the fourth building block, though it still allowed states to use efficiency for compliance.

CICS criticized EPA's application of the building blocks, saying the agency did not have the authority to require states to undertake such actions or to dictate the specifics of compliance plans unless a state crafted a plan that was "arbitrary" and blatantly ignored EPA's guidelines.

"[I]t is clear that the state is given the primary authority to establish performance standards for the existing sources and that EPA can step in and dictate only if the state fails in its obligation," CICS wrote. "Consequently, to be consistent with the delegation of authorities under the Clean Air Act, EPA must provide states with broad discretion to consider the unique characteristics of the states and sources within each state in developing their plans."

The utility coalition outlined a system under which EPA would put forth "procedural criteria" to "ensure that the plans are credible and enforceable" and "substantive criteria" to "ensure the plans consider factors important to controlling [carbon dioxide] emissions from the power sector."

"Procedural" criteria would include: whether the state accepted public comments on its plan, whether the plan has "an appropriate tracking and monitoring system in place," and whether it includes "reasonable projections" for future emissions from covered units.

"Substantive" criteria would include: whether the state has a renewable portfolio standard and whether that standard is enforceable, whether the state requires integrated resource plans to consider CO2 emissions, and whether the state participates in a multi-state GHG trading program.

"Although CICS is not advocating that a state be required to include all of these criteria in its plan, a selection of these or similar substantive or procedural criteria will allow EPA to determine that a state is taking appropriate, state-specific measures and steps to achieve reductions in CO2 emissions from existing [power plants]," the coalition wrote.

It added: "Importantly, using such an approach is consistent with the structure and intent of Section 111(d) to allow the states to set the performance standards for their own sources based on the unique circumstances of each state."

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EPA Head Blamed Obama for Paris Deal at G-7 Climate Summit

Bloomberg BNA

By: Brian Parkin and Chiara Abanese

Published: June 13, 2017

Environmental Protection Agency chief Scott Pruitt blamed former President Barack Obama for forging a bad Paris climate deal, leaving the U.S. with the job of extricating itself, the German environment minister said.

In a catalog of complaints, Pruitt blasted Obama for failing to sign off with Congress for $3 billion in financing for the international Green Climate fund, German Environment Minister Barbara Hendricks said in an interview. She cited bilateral talks with Pruitt at a two-day Group of Seven climate summit held in Bologna, Italy on Sunday and Monday, which both officials left early.

The EPA chief's "line of argument was purely domestic," Hendricks said by phone June 12 from Berlin. Pruitt said "bluntly" that the accord is not in U.S. interests, she said. Hendricks said she responded to his comments on Congress by arguing that Germany must seek parliamentary approval for annual payments to the Green Fund.

The summit has left Germany and its G-7 partners baffled as to how President Donald Trump plans to sustain climate protection in the international arena, Hendricks said.

"Pruitt didn't say one word on how he envisages the future of international climate policy and the role of the U.S. in it," she said.

Having helped forge the Paris treaty text in 2015 that now has attracted about 200 signatory nations, Hendricks said she felt a "personal affront to her honor" from Trump's assertion that the accord was created to harm the U.S.

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Pruitt supports 'sustainable' goals connected to climate

Climatewire

By: Niina Heikkinen

Published: June 13, 2017

The United States signed onto indirect international action on climate change at the recent Group of Seven environment ministers meeting, but it rejected explicit actions to address warming.

U.S. EPA Administrator Scott Pruitt briefly faced his counterparts in Bologna, Italy, over the weekend, about a week after President Trump announced his decision to withdraw from the Paris Agreement. While Pruitt reiterated that the United States would immediately stop action to implement the accord, he did join the other environment ministers in a communiqué agreeing to work toward the United Nations' 2030 Sustainable Development Goals (SDGs).

The 17 targets, first adopted by countries in 2015, include efforts to clean up the world's oceans, reduce food waste and make clean energy more affordable.

Climate change is an implicit and explicit issue throughout all the goals, said Michael Burger, executive director of the Sabin Center for Climate Change Law.

"Given that the SDGs treat climate change as one of the defining problems of our time, and they treat climate action as an opportunity for sustainable economic development, it does seem somewhat incongruent that the Trump administration was willing to sign onto the communiqué," Burger said.

Alden Meyer, director of strategy and policy at the Union of Concerned Scientists, speculated that the United States signed the SDGs so as not to be completely left out of the communiqué. He noted that addressing climate change was one of the 17 targets.

"If you don't deal with climate change, it will overwhelm your ability to deal with agriculture or public health, with water supplies, or conservation, everything is integrated in there," he said.

"You can't say, 'Don't do anything on climate change,' and assume that things would be achieved, because they wouldn't be," Meyer added.

In the communiqué released by G-7 members, environment ministers and European commissioners agree to "work on integrating the economic, social and environmental dimension of sustainable development, with the aim of leaving no one behind, for the benefit of the people, planet, prosperity, peace and partnership, and exchange respective experiences."

They state that they will all agree to implement the environmental dimension of the 2030 agenda, which includes cleaning up ocean litter, increasing people's awareness of food waste and using resources efficiently.

The United States also joined the other participants in pledging to make "further significant cuts to greenhouse gas emissions," according to a statement from German Environment Minister Barbara Hendricks.

"I was pleased the United States also made this commitment," she said.

But the United States broke from the United Kingdom, Japan, England, Germany, France, Canada and the European commissioners on their reaffirmation of the Paris Agreement. The United States says in a footnote that it will "continue to engage with key international players in a manner that is consistent with our domestic priorities, preserving both a strong economy and healthy environment."

U.S. withdrawal sparked 'unity'

The other nations expressed their disappointment and regret at the United States exit from the Paris accord. In a statement, European Commissioner for Climate Action and Energy Miguel Arias Cañete said the United States triggered a "remarkable show of unity" around the climate accord by quitting Paris.

"Let me be very clear on the point of the irreversibility of the Paris Agreement. The European Union will not renegotiate the Paris Agreement. ... With the exception of the U.S., we are all determined to move forward and implement the Paris Agreement swiftly and effectively," he said.

Cañete met with Pruitt on the sidelines of the G-7 meeting. The pair discussed the topics on the meeting agenda, including the Paris Agreement and the 2030 Agenda for Sustainable Development, according to a spokeswoman, Anna-Kaisa Itkonen.

Pruitt cut short his participation in the two-day meeting, leaving after a few hours of meetings Sunday. In a statement, EPA spokesman Lincoln Ferguson said Pruitt returned early to Washington to attend a full Cabinet meeting yesterday, but senior staff members would remain in Bologna to continue discussions with their international counterparts.

Both the president and Pruitt have said the United States could help reduce global emissions through sharing energy technology for horizontal drilling and clean coal technology.

But those approaches could have limited effectiveness for the rest of the world, said Kevin Book, managing director of research at ClearView Energy Partners LLC.

While natural gas has been a "star player" in reducing greenhouse gas emissions in the United States, a similar approach won't necessarily work elsewhere in the world, particularly in countries not already using a lot of coal, he said.

Other nations do not have the resources to develop the infrastructure for natural gas or buy the technology needed for developing and producing it. Countries interested in developing their own domestic energy sources might not have the right geology for natural gas development. The United States could export natural gas to other nations, but that, too, could face significant infrastructure hurdles, since recipients would need port access to take in the fuel.

"Molecules are easier to move than technology, and even then it takes money to buy our molecules," Book said.

Encouraging the adoption of cleaner coal technology comes with another set of challenges.

"It's possible to create lower-cost production for coal by rolling back regulations, but it's hard to produce more opportunity for coal without a price on carbon," he added.

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U.S. Says It Has Seat at Climate Talks—But Is It at Kids' Table?

Bloomberg BNA

By: Dean Scott

Published: June 13, 2017

The White House is insisting it will still have a seat at the table at the next United Nations climate summit just before Thanksgiving in Bonn—but President Donald Trump's exit from the Paris climate pact may mean the U.S. won't be sitting at the adults' table.

Administration officials, including Secretary of State Rex Tillerson and EPA Administrator Scott Pruitt, insisted the U.S. still has a voice in climate negotiations, noting Trump stopped short of pulling out of the parent treaty to the 2015 Paris deal, the 1992 United Nations Framework Convention on Climate Change.

The U.S. is “going to continue engagement” in global efforts to cut carbon pollution, Pruitt said June 6 on MSNBC's “Morning Joe” show. “We're part of the UNFCCC, as you know,” Pruitt said, and the U.S. would remain engaged in international cooperation that includes exporting “innovation and technology to Russia and China.”

Senate Democrats who pushed Trump to stay in the Paris deal said arguments that the administration plans to be engaged in those debates ring hollow, given the president's skepticism of global climate efforts.

“It is absolutely misleading to say we're still there. We're not,” Sen. Ben Cardin (D-Md.), the top Democrat on the Senate Foreign Relations Committee, told Bloomberg BNA.

But even if it technically remains in the UN framework convention, it's unclear whether the Trump administration will roll up its sleeves in those talks. Even if it does, some issues—from verifying climate actions taken by countries to forest emissions—are to be specifically addressed in the Paris deal. Bonn will host the next high-level UN climate summit Nov. 6-17.

Little Leverage to Prod China, India

More specifically, exiting the deal means the U.S. will have far less influence in pushing China, India and other other developing nations to agree to tough reporting and verification to see whether they are making good on the actions they pledged to address their emissions.

The U.S. also won't be at the table to push those same rapidly developing nations to ratchet up their actions around 2020, when parties are to offer new, more ambitious pledges under the Paris Agreement.

Trump can't withdraw from the pact immediately—the U.S. must wait four years from when the pact went into force on Nov. 4, 2016, to withdraw. In the meantime, the U.S. is still a member of

the Paris deal, and thus nothing bars it from still sitting in on those talks to implement it. By contrast, the Bush administration was relegated to observer status after it essentially withdrew from the Kyoto Protocol in 2001.

Thus for now, the U.S. remains "a full member" in the Paris pact, according to Alden Meyer, who tracks climate negotiations for the Union of Concerned Scientists.

"My assumption is they will remain relatively passive in those negotiations and basically be observing," he told Bloomberg BNA. "And if they ultimately are seen as actively intervening or trying to shape the decisions, I think they would get a pretty ferocious blowback from other countries."

Within the broader U.N. framework convention, the U.S. could still debate some key technical issues being negotiated there, including the hotly debated issue of loss and damage compensation for vulnerable countries already suffering climate impacts. The U.S. also could wield influence in two subsidiary bodies of experts launched under the 1992 framework: the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI).

Among those issues, agriculture stands out as a crucial climate-related issue essentially left out of the Paris pact but still negotiated within the UN framework convention where the U.S. still has a seat, according to Pipa Elias, who tracks agriculture and forestry issues for the Nature Conservancy.

Seeking Engagement?

Tillerson brushed aside suggestions that the U.S. has alienated allies or had become an unpredictable international partner. But the secretary offered few specifics on ways the U.S. could remain engaged on climate action in the wake of Trump's Paris announcement.

"So, we do believe that engagement globally continues to be important on the issue of climate change, and we will be seeking ways to remain engaged" through the U.N. Intergovernmental Panel on Climate Change, as well as various economic and trade forums, he said at a June 6 news conference with New Zealand Prime Minister Bill English.

The IPCC's next detailed global report on the latest climate science is due in 2021 or 2022.

Vow to Renegotiate Questioned

Cardin and other Democrats were particularly incensed over Trump's suggestion that he would be open to renegotiating the Paris deal—"on terms that are fair to the United States," Trump said—ignoring the fact that largely voluntary pact took more than 20 grueling years of talks to complete.

"To say that the president's actions just mean we want to negotiate a better agreement and we're still at the table—that is just inaccurate," Cardin said. "And our credibility has been badly damaged. Our seat is not there."

Sen. Chris Murphy (D-Conn.), who also sits on the Foreign Relations panel, scoffed at the notion that Trump would work to renegotiate the deal or his adminsitration will wield its influence in talks under the broader U.N. climate convention.

"If you want to still be part of that conversation, you should have stayed at the table" and remained in the Paris pact, Murphy told Bloomberg BNA.

Under the Paris Agreement, developed and developing nations alike vowed to take action to keep average temperatures from rising more than 2 degrees Celsius (3.6 degrees Fahrenheit) since the pre-industrial era and make best efforts to hold the line at a 1.5 degree Celsius increase (2.7 degrees Fahrenheit) this century.

U.S. Negotiators Still Expected in Bonn

The next round of talks in Bonn, known as the 23rd Conference of the Parties to the UNFCCC, or COP-23, will be focused primarily on implementing a sort of rulebook for the Paris deal, including how to verify that nations are actually making good on their climate pledges under the pact.

A total of 197 parties reached the deal in Paris in 2015. Of those, 148 parties either have ratified or formally joined the agreement. It is the 148 parties that will be at the table in those talks, launched last year in Marrakech, Morocco, as the Conference of the Parties to the Paris Agreement or CMA. Nations that haven't ratified the deal in time for the Bonn talks will still be able to observe the negotiations.

But the U.S. will likely send a small delegation of negotiators to Bonn, given that it remains in the 1992 convention, Andrew Light, a former Obama administration climate negotiator, told Bloomberg BNA.

Fewer negotiators would blunt the ability of the U.S. to shape any debate even if it stays at the table within the U.N. climate convention, according to Light, now a senior fellow in the World Resources Institute's global climate program.

"The size alone limits the ability to participate in all the conversations" which, in years past, have been held simultaneously and in rooms scattered across the Bonn summit site, he said.

Most in GOP Applaud Exit

Republican senators were in two camps. Most of them opposed President Barack Obama signing the U.S. onto the climate pact without Senate ratification. But a few, including Senate Foreign Relations Committee Chairman Bob Corker (R-Tenn.), had hoped to convince Trump that the pact was largely a non-binding deal and that the costs of withdrawal outweighed any benefit.

"I had four conversations with him last week, to explore ways of staying within it but still meeting U.S. objectives," Corker told reporters June 6.

Sen. John McCain (R-Ariz.) also was disappointed. "I would have liked to fix the problems rather than junk the whole thing," he told Bloomberg BNA.

Vow to 'Cease all Implementation'

In announcing his exit from the Paris accord, Trump by contrast made it clear the U.S. will disengage from international climate efforts and argued that other countries had gotten the better of the Obama administration in negotiating the agreement. In announcing the U.S. exit June 1, Trump said the U.S "will cease all implementation" of the Paris Agreement as well as "the implementation of the nationally determined contribution"—the U.S. pledge under which it vowed to cut emissions 26 percent to 28 percent from 2005 levels by 2025.

But world leaders haven't exactly been taking Trump up on his offer. Former Secretary of State John Kerry, who helped lead Obama's efforts on the Paris deal, also ridiculed Trump's negotiation offer.

"He is going to go out and find a better deal? That's like—I mean, that's like O.J. Simpson saying he's going to go out and find the real killer," Kerry said. "Everybody knows he isn't going to do that."

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U.S. cities and states want to implement the Paris climate accord goals. It's not that simple.

The Washington Post

By: Audrey Comstock

Published: June 13, 2017

President Trump's withdrawal from the Paris climate agreement led many cities and U.S.

organizations to pledge their own actions on climate change. But can cities and groups implement international law when the executive remains unsupportive?

When President George W. Bush withdrew from the Kyoto Protocol in 2001, cities, states and groups stepped in: Thirty-four states issued their own climate action plans. Despite the statements of support for the Paris accord by U.S. cities, states and other groups in recent weeks, these entities may find it difficult to implement the accord on a sub-national basis.

Here are three distinct challenges:

1) Presidential support pushes compliance with international law

In my research, I find that when countries face legislative barriers to ratification, they are usually able to work toward compliance after signing the treaty. Facing Senate opposition on the U.N. Convention on the Elimination of all Forms of Racial Discrimination (CERD), for instance, two U.S. presidents stepped in to advance ideals found in human rights law.

President Lyndon B. Johnson signed the CERD in 1966, and President Jimmy Carter sent it to the Senate for advice and consent to ratify in 1978. Both presidents led efforts in the executive branch to work against racial discrimination and signal that the commitment was serious — even without the Senate on board for ratification. The Senate eventually ratified CERD in 1994.

The U.N. Convention on the Rights of Persons with Disabilities (CRPD) is another example. President Barack Obama signed the treaty, but in 2014, the Senate opposed ratification. Despite the lack of Senate support, Obama was able to implement the intent of the treaty via executive-level initiatives like expanding budget support for employment and education opportunities — and directing federal agencies to advance employment opportunities for individuals with disabilities.

How did the CRPD fare in other countries? In Nigeria, the National Assembly and domestic groups supported implementing the CRPD but the measure received no support from two consecutive presidents. So NGOs, city-level disability advisers and state-level and local offices

brought Nigeria into compliance with some parts of CRPD — and disability experts commended these moves.

Despite these successes, many of the CPRD goals could not be implemented in Nigeria. Without presidential backing, groups pushing for disability rights confronted organizational, funding and governance constraints.

The United States and Nigeria differ across many categories, of course. Nigeria likely would have faced resource problems even with presidential support — without the president's support, local groups were not able to achieve full treaty implementation. On climate change, U.S. cities and groups are likely to confront similar challenges.

2) Compliance problems may still exist for cities and other groups

International relations scholarship is full of explanations of why countries fail to comply with treaties. Beth Simmons, a professor of political science and international law, offers an overview of these explanations in a 2009 book, "Mobilizing for Human Rights: International Law in Domestic Politics."

Many compliance problems could carry over to sub-national coalitions seeking to implement the Paris accord.

Sometimes countries are "strategic ratifiers" seeking reputational gains or "expressive benefits," with no real intention of actually implementing the agreement. This skeptical approach might expect that some U.S. cities, companies and universities are jumping on the bandwagon for gains in profit, branding, tourism, etc., without devoting resources to mitigating climate change. At the University of Pennsylvania, a student group accused the university of hypocrisy for maintaining investments in fossil fuels while supporting the Paris accord.

Sometimes countries simply can't comply — they lack the required funds and capabilities. This was the case in a strong democracy like Australia, which noted in a treaty reservation that it was not able to ensure paid maternity leave, a requirement spelled out in Article 11 of the U.N.

Convention on the Elimination of all Forms of Discrimination against Women.

Even when focusing on the impact of NGOs, research finds that the higher the national GDP, the higher the compliance. So funding could be a big issue for some of the cities that have signed on to support the Paris accord. Smaller cities may have less financial wiggle room for major changes.

3) Climate change is a unique, cross-border issue

While climate change has some parallels with the implementation of human rights treaties mentioned here, implementation and compliance in the two areas are arguably different. This is important when thinking through how groups below the federal level will implement climate change vs. human rights law.

Human rights law governs a country's treatment of people within its borders. Domestic groups are able to step up to address the health, well-being and rights of domestic peoples.

Climate change, of course, does not have borders. Acting without the support of the U.S. federal government will limit, but not eliminate, sub-national actors' ability to work beyond their immediate jurisdiction.

A number of U.S. entities are now working to address climate change through coalitions. The U.S. Climate Alliance has organized 13 members to date to advance the Paris accords at the state level. And states are beginning to negotiate with other countries as well. California just negotiated a green technology agreement with China aimed at addressing climate change. U.S. states and Canadian provinces already have a number of initiatives in place, and Canada announced plans for broader state cooperation.

Mapping out where city and state groups have committed to combat climate change reveals an unsurprising fact — the support is mostly in Democratic-leaning areas. The sub-national groups are trying to bridge policies across patches of the United States instead of implementing them across it as a federal-led initiative would do.

Cities and other groups will need to confront all of the hurdles countries face when seeking to comply with international law, and then some. What happens if the city or state relies on federal dollars to implement clean air or other environmental programs that the Trump administration no longer supports? Trump's proposed 2018 budget would cut the Environmental Protection Agency's budget by almost a third — including cuts to Superfund cleanup sites, environmental science programs and cleaning up the Great Lakes.

Meeting the Paris accord's goal of reducing global increases in temperature was not guaranteed even with full U.S. support. For cities and states to have a meaningful impact in implementing the accord, they will need to ensure compliance, coordination and successful implementation.

And what happens if U.S. national policy explicitly contradicts the Paris accord? The Paris accord calls for countries to step up reductions in greenhouse gas emissions at a time when Trump is calling for removing restrictions on the U.S. coal industry.

These are just some of the questions and hurdles that the sub-national climate coalition may soon be forced to address.

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Global coal production sees record drop

The Hill

By: Devin Henry

Published: June 13, 2017

Worldwide coal production fell by a record amount in 2016, energy industry analysts reported on Tuesday.

According to an annual report from BP, global coal production fell by 6.2 percent in 2016, the largest decline since BP began reporting the total in 1950. The decline was driven by shrinking coal production in the U.S., down 19 percent, and China, down 7.9 percent.

Energy-sector coal consumption dipped for the second straight year, falling by 1.7 percent and bringing the fuel's share of electricity production to 28.1 percent globally, its lowest level since 2004. Falling consumption in the U.S. and China, down 8.8 percent and 1.6 percent, respectively, drove coal's overall decline.

Renewable energy was the fastest-growing source of electricity last year, increasing by 12 percent. The industry now accounts for 4 percent of primary energy production worldwide.

In a separate report from the U.S. Energy Information Administration (EIA) on Friday, officials noted that U.S. coal consumption in 2016 — 677 million short tons — is the lowest figure since 1984.

BP's annual report — titled the "Statistical Review of World Energy" — illustrates the extent to which the global energy market is changing, with the declining price of natural gas and renewable sources like wind and solar increasingly diminishing coal's role in electricity production.

"Global energy markets are in transition," Bob Dudley, the CEO of BP Group, said in a statement announcing the report.

"The longer-term trends we can see in this data are changing the patterns of demand and the mix of supply as the world works to meet the challenge of supplying the energy it needs while also reducing carbon emissions."

President Trump has made reviving the U.S. coal industry a key issue for his presidency.

But even some of his advisers acknowledge that other sources of fuel are increasingly marginalizing coal. National Economic Council Director Gary Cohn told reporters last month that, given the rise of natural gas and renewable power, coal "doesn't even make that much sense anymore as a feedstock."

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DOJ Vows 'Course Corrections' To Implement Trump's Deregulatory Agenda

Inside EPA

By: Amanda Palleschi

Published: June 12, 2017

The Justice Department's top environmental official says the Environment and Natural Resources Division (ENRD) will continue implementing its traditional enforcement and other responsibilities but Jeffrey Wood, ENRD's acting head, says the division will make "course corrections" to implement President Donald Trump's deregulatory agenda.

In June 8 testimony before the House Judiciary Committee's regulatory reform subcommittee, Wood reiterated Trump's commitment to provide "clean air and clean water."

"At the same time, this Administration is committed to course corrections in key areas within the purview of the Division," he said, noting that Trump has directed new approaches to reducing regulatory burdens in his series of executive orders governing the energy, infrastructure permitting, regulatory review and other measures.

He also noted that the president's call to build a border wall is a strong focus for the division. He noted that although ENRD is seeking more than $115 million for 537 direct positions for fiscal year 2018, it is also requesting 20 new positions, and $1.7 million "to support the acquisition of

land necessary for the construction of the border wall identified in the President's Jan. 25, 2017 Executive Order titled *Border Security and Immigration Enforcement Improvements."*

The division will "make sure to do our mission as efficiently and effectively as possible, keeping in mind that every tax dollar we are given must be justified and put to appropriate and good use for the American people," he said.

He also noted that the division faces an "immediate focus" dealing with cases challenging EPA and other agencies' rules promulgated by the Obama administration, including several EPA regulations, such as the Clean Power Plan, EPA's New Source Performance Standards (NSPS) for volatile organic compounds and methane and others.

But he expected that some of the litigation may become moot once EPA reviews and addresses the rules under review. "Issues raised by parties challenging these rules may become moot when an agency suspends, revises or repeals a rule, and while the review of the rule is underway our aim is to avoid unnecessary adjudication, support the integrity of the administrative process, and ensure due respect for the prerogative of the Executive Branch to reconsider the policy decisions of a prior Administration," he said.

He listed four "general objectives" for ENRD that he said reflect the administration's priorities. They include a core mission of protecting the environment through "vigorous" enforcement of environmental statutes and "vigorous" defense of "lawful" regulations; strengthening infrastructure by supporting "lawful" action of permitting agencies; a firm commitment to work cooperatively with states; and, at a time of tight budgets, fulfilling the division's mission "as efficiently and effectively as possible."

Wood, who worked for Attorney General Jeff Sessions when he served in the Senate, has been the acting assistant attorney general for ENRD since the start of the administration. But he is slated to be replaced on a permanent basis by Jeffrey Clark, a strong critic of EPA's greenhouse gas rules, who Trump has nominated to lead ENRD. It is not clear what role Wood will play if and when Clark is confirmed.

Subcommittee Hearing

The subcommittee called the hearing to reevaluate the mission and scope of the civil, tax and ENRD divisions of DOJ, with many Republican members signaling out DOJ cases and policies during the Obama administration they say overstepped the department's mission.

"The Obama administration appeared to subvert the will and intent of Congress," said committee chairman Rep. Bob Goodlatte (R-VA), referring, among other things, to longstanding Republican complaints over the last administration's use of alleged "sue and settle" policies.

Rep. John Ratcliffe (R-CA) also told Wood that he welcomed EPA's recent plan to comply with a court order requiring the agency to review the jobs impacts of its Clean Air Act rules even as it appeals a key procedural portion of the case, *Murray Energy, et al. v. EPA, et al*, over whether the plaintiffs have standing, to the U.S. Court of Appeals for the 4th Circuit.

The lower court found that EPA violated the provision by failing to conduct studies on the impacts of existing rules after their implementation. DOJ, in a May update to the U.S. District Court for the Northern District of West Virginia, detailed EPA's efforts to comply with a July 1 deadline to complete the study.

Wood has previously warned that if the district court's ruling stands, it could open the door to "programmatic" suits and that ENRD would continue to fight the coal company's challenge largely because officials fear that losing the case could open the door for environmentalists to broadly challenge EPA's deregulatory agenda.

"I was heartened when I saw the compliance plan. This effort seems consistent with efforts made by [EPA] Administrator Pruitt and Attorney General Jeff Sessions as well," Ratcliffe said during the hearing.

But Wood appeared to sidestep a question from Ratcliffe over whether the administration would continue to complete the study even if the 4th Circuit finds that Murray lacks standing.

If the 4th Circuit agrees with DOJ's argument that Murray doesn't have standing, is the administration still committed to conducting the jobs impact analysis under the air act, Ratcliffe asked.

Wood responded that he had read EPA's letter to court detailing its efforts to conduct the study. But he added, "We can't speak to specific issues in pending litigation."

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Air pollution more harmful to children in cars than outside, warns top scientist

The Guardian

By: Damian Carrington

Published: June 12, 2017

Children are at risk of dangerous levels of air pollution in cars because exposure to toxic air is often far higher inside than outside vehicles, a former government chief scientific adviser has warned.

Prof Sir David King, writing for the Guardian, says walking or cycling to school would be much better for children's health. The warning comes as the UK government faces a third legal defeat for failing to tackle the country's illegal levels of air pollution. Air pollution is known to damage children's developing lungs but recent research also indicates it harms children's ability to learn at school and may damage their DNA.

"Children sitting in the backseat of vehicles are likely to be exposed to dangerous levels [of air pollution]," said King. "You may be driving a cleaner vehicle but your children are sitting in a box collecting toxic gases from all the vehicles around you."

He said new legislation to ban smoking in cars with children had gained widespread support. "So why are we still happy for our children to breathe in toxic emissions in the back of our cars?"

"The best thing for all our health is to leave our cars behind," said King, who now advises the British Lung Foundation. "It's been shown that the health benefits of walking and cycling far outweigh the costs of breathing in pollution. If more drivers knew the damage they could be doing to their children, I think they'd think twice about getting in the car."

A range of experiments, some as far back as 2001, have shown that drivers inside vehicles are exposed to far higher levels of air pollution than those walking or cycling along the same urban routes.

Prof Stephen Holgate, an asthma expert at Southampton University and chair of the Royal College of Physicians working party on air pollution, said there was enough evidence to tell parents that walking and cycling exposes their children to less air pollution than driving.

"It is nine to 12 times higher inside the car than outside," he said. "Children are in the back of the car and often the car has the fans on, just sucking the fresh exhaust coming out of the car or lorry in front of them straight into the back of the car."

Children are more vulnerable than adults, he said, because air pollution can stunt the growing of their lungs and because it increases the risk of sensitisation which can lead to asthma and other respiratory conditions.

Holgate said walking or cycling are better when possible, to reduce pollution exposure in cars and to increase physical exercise. He said: "There are multiple benefits to be gained. But parents are confused at the moment because they think there is less pollution in cars than outside, which is not the case."

Ben Barratt, from King's College London, measured the exposure of people travelling by car, bus, bicycle and walking in London in 2014. "The car driver, by a very long way, was exposed to the highest level of pollution," he said. "The fumes from the vehicles in front and behind were

coming into the car and getting trapped there. It is not true that you can escape pollution by sitting inside a vehicle."

Recent research has added to the concern about the impact of air pollution on children, beyond the direct harm to their lungs. A study in Barcelona showed that air pollution reduces the ability of children to concentrate and slows their reaction times. "This adds to the evidence that air pollution may have potential harmful effects on neurodevelopment," the scientists wrote.

A smaller study, in California, showed higher levels of traffic-related air pollution correlated with increased DNA damage in children." Children may be especially vulnerable to the effects of telomeric DNA damage due to their physical development as well as developing immune system," said the scientists.

Levels of nitrogen dioxide (NO2), emitted mostly by diesel vehicles, have been above legal limits in almost 90% of urban areas in the UK since 2010. The toxic fumes are estimated to cause 23,500 early deaths a year and the problem has been called a public health emergency by a cross-party committee of MPs.

The environmental law firm ClientEarth has defeated the ministers twice in the courts over the adequacy of government air quality plans. Ministers' latest proposals were published on 5 May but were widely condemned as inadequate, and ClientEarth is now suing the government a third time.

"Air pollution hasn't been taken seriously," said Holgate. "There is a very strange situation where the government has to make laws by being taken to court repeatedly. In my view it is really quite appalling that we haven't started to deal with this properly and put children's and adults' health first."

Diesel drivers have been given tax breaks by successive governments, including when King was chief scientific adviser, to buy diesel cars because they have lower carbon dioxide emissions. Stricter regulations were supposed to limit NO2 emissions from diesels but cheating and the exploitation of loopholes by car manufacturers led to vehicles that emitted far more pollution on the road than in lab tests.

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Former EPA Employees Are So Worried About Trump's Plans, They Formed Their Own Alt-EPA

The Huffington Post

By: Alexander C. Kaufman

Published: June 12, 2017

This week, Environmental Protection Agency chief Scott Pruitt is slated to defend drastic cuts to his agency's budget, including axing 25 percent of its staff and zeroing out climate change programs.

In response, former EPA employees have formed a new bipartisan group called the Environmental Protection Network to help reporters, activists and policymakers penetrate an administration they accuse of waging an "ideologically driven" battle to cripple core functions of the agency.

On Monday, the group hosted a call to brief reporters on what slashing 31 percent of the EPA's budget would mean for the agency. The scientists, lawyers, economists and engineers in the network submitted detailed comments to the EPA cautioning officials against scrapping regulations just because industry deems them onerous. The organization, which does not yet have a website, also helped reporters phrase Freedom of Information Act requests to make them as specific as possible.

"There are a variety of ways our experience and our unique institutional memory can help the work we can do," Ruth Greenspan Bell, who worked for the EPA's general counsel under President Bill Clinton, said on Monday's call.

The EPA did not respond to a request for comment.

The Environmental Protection Network plans to help counter legislation passed in March by House Republicans to limit the types of scientific studies the EPA can use when drafting regulations. The bill comes as part of a larger push by the Republican-controlled White House and Congress to give industry more power over the rules that govern it.

But don't expect the EPN to join the ranks of the Sierra Club, Greenpeace and the Natural Resources Defense Council.

"We don't see ourselves as a green group," said George Wyeth, who served as an EPA staff attorney for 27 years before leaving this January. "So we don't see ourselves weighing in on narrow, specific issues. But we'll take those one by one."

Pruitt, an avowed fossil fuel ally whose views on climate change clash with those of an overwhelming majority of scientists, has emerged as a powerful figure in the White House since President Donald Trump decided to withdraw the United States from the Paris climate agreement. Amid the waves made by Trump's announcement, Pruitt rebuked his detractors as "climate exaggerators" and touted the United States' success in lowering emissions.

Yet he still wants to eliminate programs that helped the country get there.

"Environmental protection is an ongoing process," Greenspan Bell said. "This sort of suggestion that Pruitt is making, that the mission is accomplished, is unfathomable."

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Former Officials See EPA Budget Plan Driving Layoffs Among Young Staff

Inside EPA

By: Doug Obey

Published: June 12, 2017

A group of former EPA officials is warning that implementing the Trump administration's proposed cuts to EPA's budget would decimate the agency for years, due to layoffs that would likely impact young staff that are crucial to the agency's future.

"Staff layoffs most likely will hit younger, more recently hired staff, decimating the next generation of environmental professionals and crippling EPA and state efforts for years to come," the Environmental Protection Network (EPN) said in a June 12 budget overview.

The concern, aired as a House committee is preparing to hold its first hearing on EPA's fiscal year 2018 budget, comes amid signs that few lawmakers are taking seriously the administration's request to cut EPA's budget by $2.6 billion or 31 percent.

But the group of former officials is taking the budget at face value, warning that the administration's request would have significant long-term effects on the agency.

"EPA's staff, located in 10 regional offices, headquarters, and a variety of labs around the country . . . essential to carrying out EPA's life-saving responsibilities, would be reduced by one in four, to 11,611 in one year," EPN says in the budget overview, breaking down effects of the administration's proposed 31 percent cut to agency funding.

EPN notes in part that deep cuts actually mean a reduction to much of the agency by 42 percent, after accounting for level funding of two large water infrastructure grant programs, meaning the smallest agency workforce since 1982 to implement environmental protection programs.

And the report goes on to warn that, "the punishment inflicted on EPA is deeper than any other major federal agency."

On a June 12 conference call, members of the group elaborated on the issue, with former EPA

assistant general counsel for toxics and water Ruth Greenspan Bell noting with respect to hiring that "the rule of thumb is last in, first out. This means that . . . the seed corn of the agency, the future of it, who are the younger folks coming in, are likely to be the most threatened by layoffs immediately."

And that, in turn threatens an investment in a "robust EPA," and institutional memory, going forward.

The concern about long-term effects on the agency supplemented a barrage of statistics on the call -- some of them familiar after the release of Trump's budget -- including a proposed cut of 45 percent overall in federal grant funding for states, Superfund cuts "on average" of 28 percent, a 25 percent cut in water pollution protection and proposed elimination of 50 programs at EPA.

EPN's George Wyeth, a former enforcement official, also emphasized during the call that the proposed budget would mean a 25 percent cut -- or one in four -- to EPA staff, with "ripple effects" all over the country.

Figures like these are likely to surface at the June 15 hearing of the House Appropriations interior subcommittee where EPA Administrator Scott Pruitt is scheduled to testify.

Accordingly, the EPN report appears to be something of a roadmap to arguments that Hill defenders of EPA are likely to use to push back on Pruitt's testimony that the agency is pursuing a "back to basics" agenda that will empower states.

"Categorical grants that support the core air, water and other programs are cut by 30 percent despite Administration assertions that states should play a larger role in implementing environmental laws," the report says in part. "A host of other types of grants are eliminated entirely . . ."

'Cripple Permitting'

The document also raises concerns that implementation of the budget will "cripple permitting, implementation and enforcement."

And it pushes back against the notion that cuts at EPA will be cost-effective, in part by projecting that it could cost the agency $68 million just to reduce its workforce as the Trump team is considering. "'Workforce Reshaping' is an Orwellian euphemism for the buyouts and other [human resources] costs resulting from the proposed huge reduction in staff. Budgets of programs protecting the environment will be further reduced to cover the cost of shrinking their staff," EPN says.

EPN also notes that the proposed cuts -- including a 13 percent cut to funding for administrative judges -- would have consequences including delays in resolving permitting issues or conflicts over enforcement matters.

While observers have suggested that Congress may significantly curtail Trump's proposed cuts, EPN representatives on the call cautioned that the agency is already struggling in the aftermath of recent budget reductions, meaning that even a 10 percent cut to the agency would have serious implications.

EPN's Wyeth added that the group is concerned that Congress will intervene to protect programs that are locally or regionally popular, but not necessarily protect other core agency functions. "That is I think a really big concern," he said, adding that for his group, efforts to draw attention to and preserve less high-profile or popular initiatives may wind up being "our greatest focus."

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Shutdown may be 'right outcome' — Mnuchin

Greenwire

By: George Cahlink

Published: June 13, 2017

The Trump administration is not ruling out closing federal agencies this fall if it can't reach a spending accord with Congress.

Treasury Secretary Steven Mnuchin today declined to take a government shutdown off the table in upcoming negotiations, saying it might be the "right outcome."

"At times there could be a good shutdown, at times there could not be a good shutdown," Mnuchin said at a Senate Budget Committee hearing this morning. He stressed the Trump administration's "primary objective" is not to force a government shutdown.

Mnuchin's remarks came in response to a question from Sen. Tim Kaine (D-Va.), who referenced a tweet from President Trump earlier this year that "our country needs a good shutdown."

Those comments sparked bipartisan criticism, and the White House eventually softened them, suggesting Trump was using the threat as leverage for upcoming budget talks.

Congress will need to have new fiscal 2018 spending in place when the fiscal year begins Oct. 1, or most federal agencies would be forced to shut down.

Mnuchin stressed the administration would "never" allow for a shutdown of "critical government infrastructure" but did not define what agencies and operations that would cover. In the past, national security and federal emergency work has continued during government funding lapses.

Additionally, Mnuchin reiterated his earlier view that Congress should raise the debt ceiling before August recess but also said the nation won't reach its borrowing limit until the end of September. He said acting sooner rather than later would avoid unsettling global markets.

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Dems threaten to stall nominees on congressional requests

Greenwire

By: Kevin Bogardus and Hannah Northey

Published: June 13, 2017

Sen. Tom Carper (D-Del.) said U.S. EPA's lackluster response to congressional requests is endangering the chances of more top officials arriving at the agency.

At a Senate Environment and Public Works Committee hearing this morning on nominees for EPA and the Nuclear Regulatory Commission, Carper, the panel's ranking member, said in his opening statement that he would find it "very difficult" to support moving forward on EPA nominees unless the agency picks up the pace in responding to Capitol Hill information requests.

"Absent a heartfelt commitment by EPA to provide complete and timely responses to our current information requests, I will find it very difficult to support moving forward with the consideration of any EPA nominees," Carper said.

"I do not make such a statement lightly. I make it with no sense of joy, but the nominations we are discussing today are important ones," he said. "They deserve our attention, just as our inquiries from the minority side deserve the attention of this administration."

Appearing at today's hearing was President Trump's second EPA nominee after Administrator Scott Pruitt: Susan Bodine, picked to lead the agency's enforcement office. Trump has lagged behind his predecessors in picking top officials for EPA, and the agency would remain short-staffed if Democrats were to stall future nominees.

Carper noted Democratic members of the committee have not received complete responses from

Pruitt to 11 letters. He also cited a Justice Department legal opinion issued under the Trump administration that said agencies did not have to respond to letters from lawmakers in the minority party (*Greenwire*, June 2).

Sen. John Barrasso (R-Wyo.), the committee's chairman, pushed back on his Democratic counterpart's assertion that EPA has been slow to respond to congressional requests. He said EPA under Trump's watch has responded to 386 congressional letters out of 416 sent to the agency.

"The Obama administration, I believe, went out of its way to avoid answering my specific oversight requests, responses that I have never received. I found it very disturbing. With respect to the committee's oversight function, I believe it is critically important," Barrasso said.

"I believe the executive branch and agencies must be required to respond to the committee's reasonable oversight requests," he said.

During today's hearing, Bodine won plaudits from GOP senators on the committee. Well-known for years in Republican circles for her expertise in environmental law, Bodine has been chief counsel for the EPW panel since 2015.

She "has been so valuable to me as a staffer," said Sen. Jim Inhofe (R-Okla.), a former EPW chairman, who said Bodine would be an "asset" to EPA, where she also served as head of the solid waste office during the George W. Bush administration. Republicans also touted support for Bodine joining EPA from Obama-era agency officials.

Democrats were tougher on the EPA nominee and took their chance to pepper Bodine about the president's proposed budget cuts for the agency, including a nearly 24 percent reduction in funds to EPA's enforcement office.

During the hearing, Bodine nodded to Pruitt's espousal of "cooperative federalism," having state regulators shoulder more of the burden in cleaning up the environment.

"EPA is going to maintain an enforcement presence and certainly create the deterrent effect and take these high-profile cases," Bodine said.

She said enforcement is a tool to stop pollution, but ultimately, the agency's goal is compliance with environmental laws. That can be achieved by working with EPA's professional staff, state agencies and those who are regulated by EPA.

Under questioning from Sen. Sheldon Whitehouse (D-R.I.), who said a "corporate polluter raiding party" had captured EPA, Bodine committed to releasing annual enforcement statistics by the agency. In addition, she said she didn't envision being subjected to pressure from Pruitt or even the president to back off from enforcement.

Bodine said, "Enforcement has always been nonpartisan and independent at EPA, and if confirmed, I would make sure that continued to be true."

NRC 'parity'

Today's confirmation hearing was preceded by days of Carper pushing to pair consideration of Trump's NRC nominees with an existing commissioner, Democrat Jeff Baran, whose term expires at the end of June 2018.

Carper said during an interview on Capitol Hill yesterday that he spoke with Barrasso a number of times about advancing Baran, a message he reiterated at the hearing, saying the Senate committee wasn't facing "parity" in the NRC picks before it.

"I hope we can find a path to ensure that the White House renominates Commissioner Jeff Baran," Carper said, "and that the committee pairs consideration of his nomination with some or all of the NRC nominees before us."

Carper, however, signaled he would support Trump's picks of current NRC Chairwoman Kristine Svinicki; Annie Caputo, a former Exelon Corp. executive who now works for EPW; and David Wright, a former South Carolina Public Service Commission chairman. Svinicki is slated to get a full committee vote Thursday, while a date has not been set for Caputo and Wright.

Democrats elsewhere, however, sounded the alarm over familiar issues.

Nevada Sens. Dean Heller (R) and Catherine Cortez Masto (D) issued a joint statement to the committee ahead of the hearing raising concern about the nominees' support for the stalled Yucca Mountain nuclear waste repository.

"We recognize that the nominees considered before the committee today have a history and record of strongly supporting moving forward with the Yucca Mountain repository," the senators wrote. "We remain hopeful that the nominees, if confirmed, approach this issue without any pre-existing bias and conflicts of interest."

The issue of Yucca Mountain didn't surface at the hearing today, but Democrats on the panel peppered NRC with questions more closely tied to their districts or specific bills.

Sen. Kirsten Gillibrand of New York pushed the NRC nominees to look more closely at standards for setting evacuation zones around facilities like the Indian Point nuclear plant near New York City.

Sen. Cory Booker of New Jersey, on the other hand, pushed Svinicki on whether the NRC should move forward with a new framework for advancing reactors other than traditional light-water reactors. Booker and other bipartisan lawmakers on the committee have floated a bill to overhaul the NRC's licensing process for advanced reactors, including fission and fusion systems (*E&E Daily*, March 21).

"We should move forward on a new framework, but if a designer comes in and seeks approval now ... I think we should get started," Svinicki said. "I think we should do both."

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Top Dem accuses EPA of refusing to reply to oversight requests

The Hill

By: Devin Henry

Published: June 13, 2017

The top Democrat on the Senate Environment and Public Works (EPW) Committee said Tuesday that the EPA is dragging its feet on requests for information.

At a confirmation hearing for President Trump's nominee to lead the Environmental Protection Agency's enforcement and compliance office, Sen. Tom Carper (D-Del.) said the EPA needs to reply to oversight requests before he'll support moving forward with agency nominations.

"The minority remains disappointed that the committee has not received complete written responses from Administrator [Scott] Pruitt to 11 oversight letters the committee has sent to the EPA this year," Carper said.

"Absent a heartfelt commitment by the EPA to provide complete and timely responses to our current information requests, I will find it very difficult to support moving forward with consideration of any EPA nominees."

The EPA and Republicans on the EPW committee said agency officials have responded to 386 of the 416 letters they has received from members of Congress this year, including many from Carper and other members. Democratic aides have said some of those responses are lacking, however.

Democrats have previously raised concerns about the Trump administration's oversight responses in light of reports that officials have told agencies to only reply to requests from Republican committee chairs.

"I agree that executive branch agencies must be required to respond to the committee's reasonable oversight requests," Sen. John Barrasso (R-Wyo.), the committee's chairman, said.

"I'm going to work to make sure the executive branch agencies under this administration work diligently and expeditiously to respond to the committee's responsible oversight requests."

The oversight tussle came during a confirmation hearing for Susan Bodine, Trump's nominee to head the EPA's Office of Enforcement and Compliance Assurance, and three Nuclear Regulatory Commission (NRC) nominees, inducing the renomination of Chairwoman Kristine Svinicki.

The NRC nominees drew few complaints from the EPW committee. Bodine attracted more attention from Democrats, who said they worry the agency will rein in its pollution enforcement activities given both her work in the private sector and the leadership of Pruitt, whom they have long accused of being soft on polluters.

Bodine said that EPA "enforcement has always been nonpartisan," and she committed to continue reporting the agency's enforcement activities if confirmed to her post.

Asked by Carper about oversight requests from Congress, Bodine promised to be responsive.

"If confirmed, my bias would always be to respond to any member of Congress, whether they're in the majority or the minority, and certainly would not see that there would be any change in practice from EPA," she said.

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Facing Regulatory Uncertainty, ECOS Seeks To Redefine State-Federal Roles

Inside EPA

By: Dawn Reeves

Published: June 12, 2017

Facing significant uncertainty about EPA's future budgets and its regulatory role, state environmental leaders are launching a new campaign to redefine state and federal roles overseeing pollution control requirements while setting principles for how to do so.

The Environmental Council of the States (ECOS) June 12 issued a white paper that lays out draft principles for states and EPA to reshape their relationship under the new administration, which has proposed a 31 percent cut to EPA's overall budget and a 45 percent cut from EPA grants to states that help them to run delegated environmental programs.

State officials have already indicated plans to cut their own programs or return delegated authorities to EPA as a way to absorb the proposed federal cuts.

For example, Arkansas environment head Becky Keogh said recently her state and others could make up for proposed cuts to EPA's categorical grant program by “refocusing” their activities and shifting some responsibilities from mandatory regulations to voluntary programs crafted in partnership with industry.

In the face of such planned changes, ECOS officials are seeking a more formal restatement of state-federal roles, promising in a press release that any recasting of roles will result in “equal or greater environmental and public health protection and outcomes through smart deployment of resources on critical priorities; reduced operating costs due to a more efficient division of services, streamlined operating relationships, best practice sharing, and elimination of redundancies across states and divisions of EPA; more effective allocation of limited resources by determining the best roles and functions states and EPA are each best suited to perform; and,

with time, fewer disputes over who should take credit for successes and achievements, and who is responsible for decisions and actions that result in setbacks."

In their white paper, states appear to go even further, calling for significant flexibility and adequate funding for implementing federal requirements.

The paper says, for example, that, "States should have flexibility to determine the best way for their programs to achieve national minimum standards that enables them to incorporate and integrate their unique geophysical, ecological, social and economic conditions" while EPA "should involve states as partners early and often in developing federal environmental and public health policy, and should specifically seek state and other stakeholder input on the efficacy of new or changed standards or program requirements."

But how or whether states will be able to define new roles that achieve such lofty goals is debatable especially given the deep cuts to state funds the administration is proposing.

ECOS President John Linc Stine, who is commissioner of the Minnesota Pollution Control Agency, sought to downplay the impact of the president's budget request to Congress, telling reporters on a June 12 press call that the administration needed to issue its proposal "to fulfill the requirement for submitting a budget to Congress" and that ECOS would engage both the administration and Congress on funding.

The issue of EPA's budget for states is likely the subject of additional discussion at a planned July 17 ECOS meeting in Washington, D.C., where state officials plan to continue to discuss their campaign.

Savings And Efficiencies

Stine added that ECOS believes there are "savings and efficiencies to be gained" through the new approach while acknowledging that having to address the budget and state/federal roles at the same time is "a little out of sequence."

He also said that ECOS engaged EPA officials in drafting the paper, and that "they know we're in this posture of proposing a renewed relationship conversation and are very open to it."

And he said that state officials did discuss with EPA "the broad concepts" of its State & Tribal Assistance Grants (STAG) line item, where states receive most of their federal funding, while also noting that there are other funds from other federal agencies available to states.

Also on the call ECOS Executive Director Alexandra Dunn said rethinking the state/federal role is "a terrific opportunity" and "a conversation long overdue." She said states want to work with the federal government "collectively rather than in competition" but that will require defining who can carry out what functions in the most effective way.

Dunn noted that EPA should have confidence in the capability of state programs because states have assumed increasing amounts delegated authority over the years.

Also on the call, Keogh, director of the Arkansas Department of Environmental Quality, said that states are ready to step up, and can "offer clarity in areas where we believe an appropriate action can take vision from the state's perspective." She also noted an average of 27 percent of a state's environmental funds is federal, and the rest comes from permit fees and other sources.

"We believe that the cost of environmental protection has increased significantly, not only at the federal level but also at the state level, so we want to bring that into new focus -- is there a better model going forward?" Keogh said.

Another aspect of the rethinking is to avoid blame when things go wrong, Dunn said on the June 12 call. The public does not discern which government entity provides services, yet there is a "long history of finger pointing" when things go wrong, and fights over winning credit for success.

"We believe if we are true partners, then credit and blame is less important and the end result . . .

is what matters," she said.

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Local high school valedictorians share their dreams as they walk past graduation

ABC 11- WTVD

By: Stephanie Lopez

Published: June 12, 2013

RALEIGH, NC (WTVD) -- The Triangle attracts some of the best and brightest minds from all over the nation, and a lot of that talent is homegrown, that's why ABC11 Together is putting together a project to celebrate the brightest young minds in the Class of 2017.

The project is called "Best In Class," and 50 high school valedictorians from around the viewing area lined-up at the North Carolina Museum of Art to share their hopes and dreams for the future with our cameras.

With GPA's like 5.0, 5.25 and 5.39, it's no wonder they're at the top of their class.

As the best of the best in the class of 2017 march past graduation, they have the power to shape our future.

"I plan on going to NC State for biomedical engineering," said Andrew Bond, valedictorian at Clayton High School.

"I hope to connect theater to mathematics in order to teach children mathematics," said Kristen Gilyard, who was top of her class at Broughton High School.

"The reason I have a drive is I want to achieve my dreams," said Robert Lachapelle, valedictorian at Hobgood Academy.

Some of those dreams are very personal.

"I didn't really settle on to biomedical engineering until last year after my brother was hit by a

car," said Abigail Nacional, valedictorian at Heritage High School. "And so both of my brothers are autistic, and I've always been curious about the causes behind and like if I cure can be discovered."

As our cameras captured the moment, parents beamed with pride.

"Her sister graduated two weeks ago from medical school and they will both be attending Harvard," said Kristen Gilyard's mother, Pamela Gilyard.

"There's definitely a little bit of competition between me and my older siblings," Kristen said.

Now, as they prepare to embark on a new journey, some parents have a word of advice.

"Keep grounded," said Abigail Nacional's father, Anthony Nacional. "Always remember what your parents have taught you, your values at home."

"I'm always here, and it's always a great thing to call mom," Pamela Gilyard said.

You can expect to hear a little bit more about each of these 50 valedictorians on air and online, under the **ABC11 Together tab**, starting June 19 as we celebrate graduation season through mid-July.

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From: Johnson, Yvonne W
Sent: Wed 5/31/2017 7:09:35 PM
Subject: News Clips – May 31, 2017

News Clips – May 31, 2017

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•□□□□□□□□ Court approves delay in Utah haze case *(Greenwire)*

•□□□□□□□□ EPA halts Obama-era rule on methane pollution *(The Hill)*

•□□□□□□□□ EPA places 90-day administrative hold on guidelines for landfills *(Legal Newsline)*

Paris Agreement

•□□□□□□□□ Trump Poised to Pull U.S. From Paris Climate Accord *(New York Times)*

•□□□□□□□□ President meets with EPA chief on Paris climate pact *(The Hill)*

•□□□□□□□□ E.U., China to make major climate announcement *(Greenwire)*

•□□□□□□□□ Whatever Trump decides on Paris, he's already put the brakes on climate action *(New York Times)*

•□□□□□□□□ Attorneys Reject Claim That Staying In Paris Deal Creates Legal Risk For Trump *(Inside EPA)*

•□□□□□□□□ UN chief warns Trump to stay in Paris climate deal *(The Hill)*

Coal

•□□□□□□□□ Only Place in America Where Coal Demand Has Risen Is Nebraska *(BNA)*

On the Hill

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•□□□□□□□□ Trump's window for scoring early legislative victories is shrinking *(Washington Post)*

Regulatory Reform

•□□□□□□□□ EPA Regulatory Review Floodgates Open, Leaving Pruitt to Mop Up *(BNA)*

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Other News

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Opinion

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…And in Light-Hearted News

•□□□□□□□□ What's a 'Covfefe'? Trump Tweet Unites a Bewildered Nation *(New York Times)*

On this day in 1935, Babe Ruth grounds out in his final at bat

Court approves delay in Utah haze case

Greenwire

By: Sean Reilly

Published: May 31, 2017

At U.S. EPA's request, a federal appellate court has pushed back the briefing schedule in litigation over the agency's haze reduction plan for Utah.

The agency had sought the blanket 60-day extension last week, partly on the grounds that it is pursuing an administrative settlement to the legal challenges brought by the state of Utah and PacifiCorp. In an unsigned order yesterday, the 10th U.S. Circuit Court of Appeals granted the request, noting that none of the parties to the litigation had objected.

The extension means that EPA's next brief, which had been due Friday, must now be filed by Aug. 1, with final briefs in the case set for submission by Nov. 13. In asking for the delay, an EPA attorney had also noted that vacancies in the agency's political leadership include positions with "direct responsibility" for the case (*E&E News PM*, May 24).

The regional haze reduction program, dating back to 1999 in its current form, aims to restore pristine views to 156 national parks and wilderness areas by 2064. The agency's plan for Utah, which partially overrode the state's proposal, requires Oregon-based PacifiCorp to eventually slash emissions of nitrogen oxides at two older coal-fired power plants in the central part of the state by almost 10,000 tons per year.

The agency, which went ahead with the plan last summer after taking public feedback on both its strategy and the state's alternative, has said that the required controls are already widely used and will lead to better views in eight parks. Utah's air quality chief has countered that the new regulations will produce little visibility improvement in return for a $700 million price tag.

At HEAL Utah, one of several environmental and public health groups that have intervened in the litigation, Executive Director Matt Pacenza said yesterday that the organization had asked EPA's Region 8 office in Denver early this month for the chance to participate in any settlement talks but had not yet received a response.

"It would certainly behoove all parties to involve all stakeholders," Pacenza said.

In an email this morning, Region 8 spokesman Richard Mylott declined to comment, citing the ongoing litigation.

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EPA halts Obama-era rule on methane pollution

The Hill

By: Devin Henry

Published: May 31, 2017

The Environmental Protection Agency (EPA) has halted an Obama administration rule to cut down on pollution of methane, a greenhouse gas produced at oil and natural gas drilling wells.

The EPA on Wednesday said it had issued a 90-day stay of agency rules designed to limit methane leaks at drilling sites, as well as rules setting standards for equipment and employee certification.

President Trump ordered the EPA to reconsider the methane standards in March when he signed an executive order to repeal several Obama administration climate regulations.

Obama administration officials finalized the methane rule last May. The regulation, part of a federal methane reduction strategy that Trump has also repealed, was designed to cut 520,000 short tons of methane pollution by 2025. The EPA said compliance costs would be about $530 million.

Drillers opposed the rule, saying it was costly and duplicative. Several states sued over the standards at the time, including Oklahoma, whose then-attorney general, Scott Pruitt, is now administrator of the EPA.

The EPA said in April it would formally review the methane rule, a lengthy process that includes a formal federal rulemaking.

The decision to roll back its methane standards comes as Canada begins the process of tightening its standards. Obama and Canadian Prime Minister Justin Trudeau announced their methane reduction strategies together in 2016.

Environmental groups have said they will sue over the decision to reconsider the methane rules. In a Wednesday statement, the Natural Resources Defense Council said the Trump administration is "giving its friends in the oil and gas industry a free pass to continue polluting our air."

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EPA places 90-day administrative hold on guidelines for landfills

Legal Newsline

By: Mark Iandolo

Published: May 31, 2017

WASHINGTON (Legal Newsline) — The U.S. Environmental Protection Agency (EPA) announced May 23 a 90-day administrative stay for the August 2016 New Source Performance Standards and Emissions Guidelines for municipal solid waste landfills.

"EPA is continuing to ensure that the public has the opportunity to comment on agency actions," Administrator Scott Pruitt said. "Reconsidering portions of the landfill rules will give stakeholders the opportunity to review these requirements, assess economic impacts and provide feedback to the agency through the reconsideration process."

EPA issued the updated guidelines for existing municipal solid waste landfills and standards for newly built, modified or reconstructed landfills in August, 2016. The EPA estimates the rule would cost businesses more than $100 million per year. In response, industry petitioners asked the agency to reconsider the rule. In a May 5 letter, EPA notified these petitioners that it would place a stay on the rule and take the time to reconsider certain aspects of it.

The EPA notes this decision is in line with President Trump's energy independence executive order. The EPA says the review of the rule will help ensure both protection of the environment and of the economy.

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Trump Poised to Pull U.S. From Paris Climate Accord

The New York Times

By: Coral Davenport

Published: May 31, 2017

President Trump was poised Wednesday to withdraw the United States from the Paris climate agreement, two officials with knowledge of the decision said, making good on a campaign

pledge but severely weakening the landmark 2015 climate change accord that committed nearly every nation to take action to curb the warming of the planet.

But White House officials cautioned that the decision is not yet final.

Faced with advisers who pressed hard on both sides of the Paris question, Mr. Trump appears to have decided that a continued United States presence in the accord would harm the economy; hinder job creation in regions like Appalachia and the West, where his most ardent supporters live; and undermine his "America First" message. But advisers pressing him to remain in the accord were still pressing up to the final announcement.

The exit of the United States, the world's largest economy and second-largest greenhouse gas polluter will not dissolve the 195-nation pact, which was legally ratified last year, but it could set off a cascade of events that would have profound effects on the planet. Other countries that reluctantly joined the agreement could now withdraw or soften their commitments to cutting planet-warming pollution.

"The actions of the United States are bound to have a ripple effect in other emerging economies that are just getting serious about climate change, such as India, the Philippines, Malaysia and Indonesia," said Michael Oppenheimer, a professor of geosciences and international affairs at Princeton, and a member of the Intergovernmental Panel on Climate Change, a United Nations group that produces scientific reports designed to inform global policy makers.

Once the fallout settles, he added, "it is now far more likely that we will breach the danger limit of 3.6 degrees," the average atmospheric temperature increase above which a future of extreme conditions is irrevocable.

The aim of the Paris agreement was to lower planet-warming emissions enough to avoid that threshold.

"We will see more extreme heat, damaging storms, coastal flooding and risks to food security," Professor Oppenheimer said. "And that's not the kind of world we want to live in."

Foreign policy experts said the move could damage the United States' credibility and weaken Mr. Trump's efforts to negotiate issues far beyond climate change, like negotiating trade deals and combating terrorism.

"From a foreign policy perspective, it's a colossal mistake — an abdication of American leadership " said R. Nicholas Burns, a retired career diplomat and the under secretary of state during the presidency of George W. Bush.

"The success of our foreign policy — in trade, military, any other kind of negotiation — depends on our credibility. I can't think of anything more destructive to our credibility than this," he added.

But Mr. Trump's supporters, particularly coal state Republicans, cheered the move, celebrating it as a fulfillment of a signature campaign promise. Speaking to a crowd of oil rig workers last May, Mr. Trump vowed to "cancel" the agreement, and Stephen K. Bannon, Mr. Trump's chief strategist, has pushed the president to withdraw from the accord as part of an economic nationalism that has so far included pulling out of the Trans-Pacific Partnership, a multilateral trade pact, and vowing to renegotiate the North American Free Trade Agreement.

Coal miners and coal company executives in states such as Kentucky and West Virginia have pushed for Mr. Trump to reverse all of President Barack Obama's climate change policies, many of which are aimed at reducing the use of coal, which is seen as the largest contributor to climate change.

In a May 23 letter to Mr. Trump from Attorney General Patrick Morrisey of West Virginia and nine other state attorneys general, Mr. Morrisey wrote, "Withdrawing from the Paris agreement is an important and necessary step toward reversing the harmful energy policies and unlawful overreach of the Obama era." He added, "The Paris Agreement is a symbol of the Obama administration's 'Washington knows best' approach to governing."

Although the administration has been debating for months its position on the Paris agreement,

the sentiment for leaving the accord ultimately prevailed over the views of Secretary of State Rex W. Tillerson and Ivanka Trump, the president's daughter and close adviser, who had urged the president to keep a seat at the climate negotiating table.

Other countries have vowed to continue to carry out the terms of the Paris agreement, even without the United States.

President Xi Jinping of China, the world's largest greenhouse gas polluter, has promised that his country would move ahead with steps to curb climate change, regardless of what happens in the United States.

During a telephone call in early May with President Emmanuel Macron of France, according to the Chinese Foreign Ministry, Mr. Xi told the newly elected French leader that China and France "should protect the achievements of global governance, including the Paris agreement."

But the accord's architects say the absence of the United States will inevitably weaken its chances of being enforced. For example, the United States has played a central role in pushing provisions that require robust and transparent oversight of how emissions are monitored, verified and reported.

Without the United States, there is likely to be far less pressure on major polluting countries and industries to accurately report their emissions. There have been major questions raised about the accuracy of China's emissions reporting, in particular.

"We need to know: What are your emissions? Where are your emissions?" said Todd D. Stern, the lead climate negotiator during the Obama administration. "There needs to be transparent reporting on countries' greenhouse gas emissions. If the U.S. is not part of that negotiation, that's a loss for the world."

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President meets with EPA chief on Paris

climate pact

The Hill

By: Timothy Cama

Published: May 30, 2017

President Trump met with his Environmental Protection Agency (EPA) chief ahead of his decision on whether to pull the U.S. out of the Paris climate change agreement.

White House press secretary Sean Spicer announced the Tuesday meeting between the president and Scott Pruitt and said Paris was on the agenda.

"This is a subject that the president is spending a great deal of time on, and one that he spoke to the G7 members about during their meetings," Spicer told reporters on Tuesday, referring to last week's summit of the Group of Seven leaders in Sicily, where Trump faced pressure from each of the other leaders to stay in the agreement.

"Ultimately, he wants a fair deal for the American people."

Trump announced over the weekend that he would reveal his decision on the Paris agreement this week.

Pruitt is an outspoken opponent of the agreement and wants Trump to abide by his campaign promise made just over a year ago to pull the United States out.

Pruitt has said in recent weeks that Paris is a "bad business deal" and an "America last" strategy. He said other major countries such as China and India are being held to much more lenient standards that the United States.

Later in his daily briefing, Spicer was asked whether Trump believes that human activity causes climate change.

"Honestly, I haven't asked him. I can get back to you," Spicer responded.

The reporter followed up, asking if Trump is still deciding on that question. "I don't know. I honestly haven't asked him that specific question," Spicer said.

The consensus of scientists who have studied the issue is that greenhouse gases, caused by human activity like burning fossil fuels, is far and away the primary cause of the global warming of recent decades.

Under the Paris pact, reached in 2015, nearly 200 nations agreed to nonbinding greenhouse gas emissions reductions that they each determined on their own. Former President Barack Obama, a leader in negotiating the deal, promised a 26 percent to 28 percent cut from the United States.

While Trump promised to exit the agreement, he has been under pressure since the election to stay in it. The forces pushing him to stay include Secretary of State Rex Tillerson, some big businesses such as Exxon Mobil Corp., which Tillerson once helmed, and his daughter Ivanka.

Over the weekend, Sens. Lindsey Graham (R-S.C.) and John McCain (R-Ariz.) added their names to the push to stay in the Paris deal.

But Axios reported that Trump has recently told people close to him that he plans to exit the deal.

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E.U., China to make major climate announcement

Greenwire

By: Jean Chemnick

Published: May 31, 2017

The European Union and China will issue a statement Friday declaring climate change "an imperative more than ever" in the face of expected U.S. withdrawal from the Paris Agreement.

A final draft statement seen by E&E News, prepared for a meeting Friday, is the first-ever bilateral agreement on climate change between the European Union and China. It will be backed by all 28 E.U. member states, including the United Kingdom.

The draft also called the Paris Agreement a "historic achievement" and "proof that with shared political will and mutual trust, multilateralism can succeed in building fair and effective solutions to the most critical global problems of our time." President Trump's national populism has been seen as a rebuke to post-World War II multilateralism.

It comes amid reports that Trump plans to withdraw the United States from participation in the agreement among nearly 200 nations to reduce greenhouse gas emissions. The administration also is reportedly considering pulling the United States out of the underlying U.N. framework calling on nations to address climate change globally.

The European Union in the draft reaffirmed its commitment to the joint developed-world pledge to mobilize at least $100 billion a year by 2020 to help poor countries cope with the impacts of global warming.

German Chancellor Angela Merkel, who has exchanged barbs with Trump in the days since last

weekend's Group of Seven summit ended in division over Paris and trade issues, is meeting today with Chinese Premier Li Keqiang. The two are expected to make a statement of their own.

Li Shuo, senior global policy adviser for Greenpeace in East Asia, said the E.U.-China pact is a direct response to the Trump administration, which has single-handedly dismantled the bilateral relationship that the United States and China forged throughout the Obama years.

"The moment when Trump announces the Paris pull-out will mark the divorce of [the] U.S.-China climate relationship and the beginning of a reinvigorated partnership between China and the E.U.," he said.

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Whatever Trump decides on Paris, he's already put the brakes on climate action

The New York Times

By: Chris Mooney

Published: May 30, 2017

The frenzied chatter and speculation is on over whether President Trump will withdraw the United States from the Paris climate agreement this week.

But this much is already clear: Trump's administration will not actively work to stop climate change. And considering that the United States is the second-biggest global emitter, that may well prove the bigger deal.

"We're all now part of this drama, will they withdraw or not, but they have already said they won't do anything substantial on climate policy, and that's what matters," said Oliver Geden, a climate-policy analyst who is a fellow at the Institute for Science, Innovation and Society at the University of Oxford.

Calculations by scientists and climate-policy experts point to several key facts underlying this discussion. First, the U.S. emissions cuts were set to make up a major part — more than a fifth between now and 2030 — of the reductions achieved by the Paris climate agreement.

Second, even with the United States and all other countries doing their best to meet their commitments, that agreement still was not strong enough, at least not in its first round of country-level pledges, to keep the world from warming above the threshold of 2 degrees Celsius (3.6 degrees Fahrenheit) that scientists have identified as a marker beyond which we'll see truly "dangerous" change. (We're already a bit over 1 degrees Celsius now above preindustrial temperatures.)

This means that in 2017, to tackle climate change, the world needs a *more* ambitious United States — not a country that will abandon Paris entirely, or at minimum, scale back its commitments to that agreement.

Let's take this in pieces:

1. The United States, measured by emissions cuts out to 2030, makes up 21 percent of the Paris climate agreement. According to an analysis from the think tank Climate Interactive, the U.S. pledges would account for 21 percent of the total expected emissions cuts out to the year 2030 under the Paris agreement.

Under the Obama administration, the United States promised to slash emissions by 26-to-28 percent below 2005 levels by 2025. This made the United States a major contributor to the deal during its early implementation over the critical next 10 to 15 years, a time period that will heavily determine what kind of a planet we end up with.

"Trump has already damaged U.S. prospects for meeting its Paris Agreement goal by undermining federal regulations and casting a dark shadow of uncertainty across the energy sector," said Ellie Johnston, the climate and energy lead for Climate Interactive. "Fortunately, many U.S. states, cities, and businesses are not letting this opportunity slip away and are still

taking action, but it is too early to tell how much they can close the gap created by the Trump Administration."

Indeed, just because Trump is president, that doesn't mean that the entire 21 percent contribution of the United States will be lost. The country has already lowered its emissions 12 percent below their 2005 levels as of 2015, according to the Energy Information Administration. That's largely due to factors like the switching from burning coal to burning natural gas brought on by fracking.

But with President Trump's moves to roll back Obama-era regulations that were designed to achieve the U.S. pledge, it's unlikely the country will achieve the remaining reductions. As a new analysis by Climate Action Tracker points out, Trump policies "are projected to flatten U.S. emissions instead of them continuing on a downward trend."

2. Paris was never enough to hold the planet's warming "well below" 2 degrees Celsius anyway. It has been clear from the start that these pledges were not enough and that more will have to be done to get warming under control.

A 2016 study in Nature, for instance, found that the current commitments under Paris "still imply a median warming of 2.6—3.1 degrees Celsius by 2100."

"The arm of the laws of physics is not so easily twisted," said Joeri Rogelj, a researcher at the Institute for Applied Systems Analysis in Laxenburg, Austria, and a lead author on the study. "Whatever you delay now, you will have to make up later, and it's obvious that limiting warming to 2 degrees or 1.5 as was mentioned in the Paris agreement is an incredible challenge which will require lots of innovation, new technologies, new ways of thinking, entrepreneurship."

Some scientists are already suggesting that the 2-degree goal may be lost to us. "There's so many things that need to go right for 2 degrees. Essentially we've emitted too much, which makes the 2-degree challenge hard," said Glen Peters, a senior researcher at the Center for International Climate Research in Oslo.

If there's any chance left, it's clear that nations need to ramp up their ambitions to keep warming below 2 degrees Celsius — something that Paris is designed to do, through regular meetings aimed at determining what adjustments need to be made to meet that goal.

It may well be that the world will need to pioneer geoengineering policies to control temperature, or "negative emissions" technologies to extract carbon from the air to buy some time.

3. Trump, in the Paris agreement or out of the Paris agreement, is dulling the U.S. contribution to fighting global climate change and punting the problem to the rest of the world.

Whether the United States stays in or out of the Paris agreement, the upshot is the Trump administration is delaying action on climate change, and is defining U.S. ambition downward rather than upward. Since climate change is a collective problem, that means that the slack must be made up some other way.

"It is a global problem and it's a cumulative problem," Rogelj said. "Everything we are not doing today somewhere on the globe will have to be compensated somewhere else, or later."

Other countries may be able to make up the slack for the United States. The Climate Action Tracker analysis suggests, for instance, that progress in India and China could be enough to offset any U.S. backsliding. "If something happens in a positive direction in the rest of the world, that can completely offset what's going on in the U.S.," Peters said.

But filling the U.S. role in the Paris agreement is only part of the problem — since that agreement itself doesn't go far enough, other countries would also have to ratchet up their ambitions further if the United States falls behind.

"Somebody would have to cover that part [for the United States], and then there's still the gap for the whole world," Geden said.

The conclusion is pretty clear. Trump may stay in the Paris agreement and define the U.S. contribution down, or he may leave the agreement entirely. The latter would be far more controversial.

But either way what it all means is that the United States is ceding a leadership role in an increasingly important global arena.

"If the U.S. goes sideways or goes back it creates a void for someone else to fill in a leadership sense, there's probably many countries that would be happy to be seen as a world leader," Peters said.

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Attorneys Reject Claim That Staying In Paris Deal Creates Legal Risk For Trump

Inside EPA

By: Abby Smith

Published: May 30, 2017

Environmental attorneys are dismissing warnings from GOP senators and state officials opposed to the Paris Agreement that continued United States participation in the global climate deal creates a risk that the Trump EPA could ultimately be forced to regulate greenhouse gases through an economy-wide framework under section 115 of the air act.

The GOP argument is overstated and "wrong on the law," Michael Burger, executive director of the Sabin Center for Climate Change Law, said in a May 26 blog.

"Section 115 provides statutory authority for a willing administration to create a coherent, market-based, and cost-effective approach to reducing GHG emissions. But it does not pose the legal threat the Republican senators claim," he writes.

Section 115 of the Clean Air Act governs international air pollution and generally provides EPA with broader economy-wide authority to address GHGs and other domestic pollutants that harm other countries than the sector-based approach inherent in section 111 -- under which the Obama EPA promulgated the controversial GHG rule for existing power plants known as the Clean Power Plan (CPP).

During the Obama administration, Burger and others suggested that EPA could use section 115 to craft an economy-wide GHG cap-and-trade program.

They argued the Obama EPA could meet section 115's requirements by issuing an endangerment finding -- similar to its 2009 finding that spurred its light-duty vehicle rules -- that domestic GHGs contribute to climate change and harm other countries. It could also issue a separate "reciprocity determination," based largely on the Paris Agreement, showing that other countries are also making efforts to reduce emissions.

But as President Donald Trump weighs whether to exit the deal as he suggested on the campaign -- with *Axios* reporting that he could announced a withdrawal this week -- he is facing pressure from those urging him to leave, who charge that staying in the Paris deal creates a "significant legal risk" environmentalists will use the agreement to push GHG regulation under section 115.

The argument is espoused to varying extents in two recent letters from a group of 10 GOP state attorneys general and nearly two dozen Republican senators urging Trump to fulfill his campaign promise and pull the United States out of the Paris climate accord.

In their letters, the GOP AGs and lawmakers say that environmentalists will argue remaining in the Paris Agreement satisfies the "reciprocity" requirement under section 115.

The attorneys general said they disagree that staying in the deal satisfies the law's "reciprocity" requirement, arguing that the agreement "provides the United States no enforceable rights against air pollution occurring in other countries," though they add that environmentalists' argument is "another negative consequence" of remaining in the deal.

GOP Senators

The Republican senators, however, are more bullish on the claim, arguing that environmentalists will raise EPA's authority under section 115 "in court as they fight" the Trump administration's efforts to rescind the CPP.

"Leading environmental attorneys have been candid that they intend to use the Paris Agreement and the existing endangerment finding to force EPA to regulate under Section 115 of the Clean Air Act," the senators write.

They quote David Bookbinder, former Sierra Club chief counsel now with the libertarian Niskanen Center, who once called the Paris deal and Section 115 "the silver bullet *du jour* of the enviros."

"[T]heir intent to use it is real," the GOP senators add, charging it is "clear that those advocating for greenhouse gas regulations will use the Paris Agreement as a legal defense against your actions to rescind the Clean Power Plan if" Trump decides to remain in the climate deal.

But Bookbinder, in a May 25 blog post, takes issue with how the Republican lawmakers characterize his earlier comments. He writes that he has previously outlined "not only huge legal obstacles to using Section 115 in the manner envisioned by environmentalists, but even attempting to do so would certainly cause a political frenzy."

And Burger suggests that environmentalists are not likely to sue to force the Trump administration to use section 115 to regulate GHGs. He notes a case 27 years ago where environmentalists attempted a similar feat involving acid rain, in which they lost in a unanimous appellate court decision.

Burger says he and others recognize EPA has discretion under section 115, but that it is a tool to be utilized by a willing administration. "Section 115 is an option that an EPA that wants to address greenhouse gas emissions could consider; it is not a vehicle for forcing an unwilling administration to implement the Paris Agreement."

'Laying the Groundwork'

Further, Bookbinder warns the lawmakers that "ironically" they are "laying the groundwork" for a next Democratic administration "to attempt to use Section 115 in precisely the way they dread." He notes his prior remarks were meant "to draw attention to the very real risk of Congressional inaction leading to a future EPA imposing just such a regulatory regime."

Bookbinder and his colleague David Bailey in August shifted their position on the legal support of crafting an economy-wide GHG framework under section 115. They noted that the Supreme Court has accepted all three climate-related cases presented to it, and each time broadly upheld EPA's regulatory authority over GHGs.

They suggest that if Congress continues not to take legislative action to regulate GHGs, the high court could ultimately uphold a future Democratic administration's efforts to regulate GHGs under section 115.

"The Court will take the case in order to decide on the following question: 'If after another eight years in which world temperatures have continued to increase, catastrophic climate change has become even more widely predicted, and Congress has still done nothing, does Section 115 provide authority to comprehensively regulate greenhouse gases?' We think that, given the alternative, the Court will say 'Yes,'" Bookbinder and Bailey wrote then.

Thus, in his recent blog post, Bookbinder argues if the Republican senators truly feared such a legal risk resulting from the Paris Agreement, "the best remedy is to preempt" that outcome by legislating. "Rather than wrest the U.S. out of an international agreement that will be easy to rejoin, they might take action now to get a price on carbon, leaving Section 115 to remain a small and relatively obscure part of the Clean Air Act," he writes.

Bookbinder also dismisses the senators' claim that environmentalists will use the Paris Agreement and section 115 in arguments challenging Trump EPA efforts to roll back the CPP.

Burger echoes this, underscoring that any litigation over the CPP will revolve around EPA's authority under air act section 111. “A challenge to any EPA actions involving the Clean Power Plan will succeed or fail based on the requirements set forth in Section 111 of the Clean Air Act, which is the authority under which the Clean Power Plan was promulgated,” Burger writes.

He adds the legal tests for section 111 are “completely different than those in Section 115, so Section 115 would have no bearing on the outcome of Clean Power Plan litigation.”

Burger also says section 115 would not impact any Trump administration attempt to target EPA's GHG endangerment finding -- which underpins its climate regulations.

“EPA will not lose because GHG emissions also endanger the lives and well-being of people in other countries, or because of the existence of Section 115, or because of the United States' continued membership in the Paris Agreement,” Burger writes. “A finding that GHG emissions do not endanger public health and welfare will fail because it is factually wrong and without scientific support.”

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UN chief warns Trump to stay in Paris climate deal

The Hill

By: Devin Henry

Published: May 30, 2017

The head of the United Nations on Tuesday warned the United States against leaving the Paris climate deal, saying other countries would fill a “void” if President Trump decides to step away from the landmark agreement.

"If one country decides to leave a void, I can guarantee someone else will occupy it," Secretary-General António Guterres said during an event at New York University on Tuesday.

Guterres warned that international adversaries such as China and Russia could step into a global leadership role if Trump backs off the climate commitments made by former President Obama under the Paris agreement. Guterres noted the growth of clean energy in heavily polluting countries like China and said, "the message is simple: The sustainability train has left the station. Get on the train or get left behind."

Trump has said he will make a decision on the U.S.'s involvement in the Paris deal sometime this week, after discussing the issue with Group of Seven leaders in Italy on Friday. He has said the Paris deal is unfair to the U.S. because other countries have set less lofty greenhouse gas reduction goals.

Trump is reportedly telling associates he is preparing to pull out of the deal, a step that would put the U.S. out of step with nearly every country in the world. Trump met with Environmental Protection Agency Administrator Scott Pruitt, a Paris critic, on Tuesday.

Guterres said he has urged Trump to stay involved in international environmental work. He said that if the U.S. backs out of Paris, the private sector and local governments should still play a major role.

"It's very clear that governments are not everything," he said. "On the other hand we are doing our best, in dialog with the administration and with Congress, to make the U.S. understand that funding the development aid, funding foreign policy in general, funding organizations like the UN, is also in the interest of the American people."

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Only Place in America Where Coal Demand Has Risen Is Nebraska

Bloomberg BNA

By: Tim Loh

Published: May 31, 2017

Looking for a rare bright spot in U.S. coal?

Consider Nebraska, the only state producing more electricity from the fossil fuel than it did a decade ago, according to a Bloomberg analysis of U.S. government data.

While America's slashed its coal-fired electricity generation by more than a third between 2006 and 2016—creating havoc for the coal sector, which once dominated the country's utility space—Nebraska raised its coal-fired power output by 6 percent, according to data from the U.S. Energy Information Administration.

Nebraska's better known for corn. But it's home, too, to some of America's newest coal-fired power plants. In 2009, the Omaha Public Power District opened the almost 700-megawatt Nebraska City Station Unit II coal-fired facility. In 2011, the 220-megawatt Whelan Energy Center Unit 2 plant came online. Meanwhile, the Fort Calhoun nuclear power plant shut down for good last year.

"That will bump up our reliance on coal a little bit," said David Bracht, director of the Nebraska Energy Office, in a phone interview.

While Nebraska doesn't mine its own coal, it's located conveniently close to Wyoming, which is home to the Powder River Basin, America's largest and cheapest coal-producing region. Nebraska is also unique in that all of its utilities are publicly owned—a result of Great Depression-era legislation—which may have slowed its buildout of alternative energy sources, according to Bracht.

That said, Nebraska's love affair with coal may have peaked in 2013, when it generated more

than 26,000 gigawatt-hours of electricity from coal, according to the EIA. In 2016, it only generated about 22,000 gigawatt-hours from the mineral. Meanwhile, the state's roughly doubled the electricity it's generating from wind.

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The GOP Congressional agenda is lagging five months in

CNBC

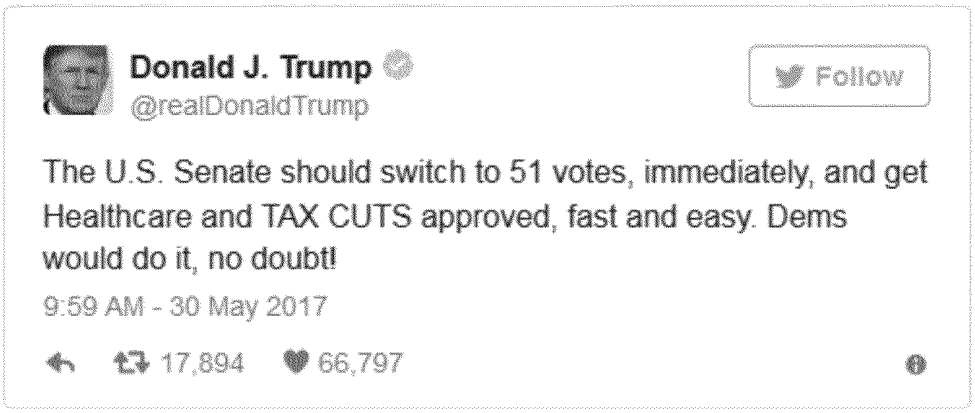
By: Leigh Ann Caldwell

Published: May 31, 2017

Congressional Republicans began the year with a long and ambitious list of priorities that had been sidelined during eight years of President Barack Obama's tenure. Five months in, the GOP policy agenda is lagging far behind their expectations. A slower-than-anticipated process of confirming President Donald Trump's nominees, the bruising effort to pass a health-care reform plan in the House and the ongoing controversy coming from the White House over expanding investigations into Russia have slowed any momentum the party had coming out of last year's election.

And time is not on their side. Congress has just seven weeks of work before the beginning of August when they take five weeks off to return to their districts. The fall legislative agenda will be filled with the battle over funding the government before the new fiscal year on October 1 — the one thing on their agenda that Congress is Constitutionally tasked with doing. And January begins another critical election year for lawmakers, making tough legislation even more difficult to pass.

With Congress out for the rest of this week, the president registered his opinion on the slow pace of progress, advocating for a change in Senate rules that would allow legislation such as tax reform and health care to pass with a simple majority.



Senate Majority Leader Mitch McConnell has repeatedly said he's not interested in changing the Senate rules from the 60-vote threshold to pass legislation to a 51-vote majority. In addition, the two pieces of legislation Trump cited are attached to a rarely used legislative maneuver called reconciliation that already allows for those bills to pass with a simple majority.

As Congress heads into the summer months, here's a progress report on the GOP agenda:

Repeal of Obamacare

Status Update: Despite promises from candidate Trump that he would repeal and replace the Affordable Care Act on his first day in office, the process has taken much longer. After fits and starts, the House has passed a bill that would reform the nation's health care system. The Senate is currently at work on taking that legislation and altering it but it's not happening rapidly.

Outlook: While GOP senators repeatedly say they are putting no timeline on their effort, the reality is they must pass it before they leave town for their August recess in order to time for the House to vote on the measure again — as required by Congressional rules — and that must happen before the end of the fiscal year or else the vehicle to pass the measure, known as reconciliation, expires.

Tax reform

Status Update: Trump has released a one-page outline on his broad vision for tax reform without specifics. Republican leaders in the House and the heads of relevant committees have been meeting with Trump adviser Gary Cohn and Treasury Secretary Steve Mnuchin to discuss details of an overhaul of business and individual taxes. While the work is being done behind the scenes, Republicans on the Hill admit that tax reform will not move forward until health care is done.

Outlook: In addition to timing, there's disagreement between House and Senate Republicans on elements of tax reform. House Speaker Paul Ryan is pushing for a new corporate tax called the border adjustment tax, which would impose a tax on any product made overseas and coming into the U.S. Senate Republicans soundly reject the idea, saying that it would lead to a trade war. The administration has given mixed signals on the border adjustment tax.

The difficulty passing health care is slowing the momentum. Revamping the entire tax code is politically risky and with 2018 looming, it becomes more difficult. If tax reform doesn't pass this year, it's likely that comprehensive tax reform would be pared down to be a tax-cut bill.

Dodd-Frank

Status Update: Republicans have had their eye on either repealing the comprehensive Wall Street regulation legislation signed into law in 2010, or severely gutting it. A House Committee passed the Financial Choice Act out of committee, which is the first step in advancing legislation. The House could vote on it as early as next week.

Outlook: The Senate is less motivated to pass a repeal of the financial oversight legislation. The Senate committee has "no plans" to take up the House bill as of now, according to a Senate aide. Instead, the Senate is more interested in a broad-based bipartisan bill that focuses on economic growth and could include some financial regulation reform.

Infrastructure

Status Update: This was never one of Congressional Republicans' priorities, but it was a top agenda item of the president. Congress has done little work on an infrastructure bill. In his budget, Trump outlined some broad strokes about an infrastructure plan that included $200 billion worth of federal funding.

Outlook: With priorities shared by both Trump and Congress taking longer than anticipated, any movement on infrastructure will be almost entirely up to the White House. And amidst almost daily developments in the Russian investigations, spearheading a massive infrastructure bill beyond broad strokes will be difficult.

Appropriations Bills

Status Update: Congress is tasked with passing 12 funding bills before October 1. The House must pass the funding bills first before they are sent to the Senate. The House has yet to pass one of the appropriations bill.

Outlook: The appropriations process is often messy. Congress in recent years has rarely finished its work on time and has had to pass short-term spending bills that keep the government open until the House and Senate hash out the details of what it wants to fund or de-fund in the next fiscal year. Sometimes there's a government shutdown if no agreement can be reached. We're still months away from October 1, which in Washington, is an eternity, but the closer that date gets, the more Congress will scramble.

Regulatory reform

Status Update: This is arguably the biggest success in the GOP agenda thus far. Republicans want to roll back regulations passed during President Obama's term through executive order that they said stifled economic growth. Republicans passed 14 measures that undo Obama regulations, including a measure that protected waterways from coal mining runoff, a Dodd-Frank measure that forced oil and gas companies disclose information related to foreign governments, and a measure that banned states from drug testing unemployment insurance recipients.

A Senate Republican assessment says that the reduction of the regulations will "save taxpayers at least $3.7 billion and 4.2 million hours of paperwork."

Outlook: The mechanism that Congress used to roll back the regulations has now expired. While Republicans will continue to reduce regulations throughout the economy, it will have to be done through the normal legislative procedure.

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Trump's window for scoring early legislative victories is shrinking

The Washington Post

By: Damien Paletta and Mike DeBonis

Published: May 31, 2017

President Trump faces an increasingly narrow path to win major legislative victories before the looming August recess, with only two months left to revive his health-care or tax initiatives before Congress departs for a long break.

White House officials said Tuesday that Trump has become increasingly incensed that legislation is bogging down in the Senate, something they blame on Democrats. Trump wrote on Twitter that the Senate should change its long-standing rules and "switch to 51" votes to pass health-care changes and to vote on a tax bill instead of working to get 60 votes to end a potential filibuster.

But the Senate is already trying to pass health-care and tax changes with just 51 votes, something it is unable to do because of splits within the GOP.

"The hardest thing now is figuring out what can get 51 votes in the Senate," said Stephen Moore, who was a top economic adviser to Trump during the campaign and who has urged the White House to move more quickly.

Congress also faces an increasing number of legislative distractions that could further imperil Trump's agenda. There is a big divide among Republicans over whether they can vote to pass a budget resolution in the coming months, and failing to do so could make it much more difficult to change the tax code. In addition, White House officials are now demanding that Congress vote to raise the debt ceiling before the August break — pressing members to take a difficult vote before they head back to their districts.

Trump's frustration comes as the White House is increasingly consumed by internal tumult and controversies. Communications director Michael Dubke announced his resignation Tuesday, while Trump and his aides worked to deflect questions about whether his son-in-law, Jared Kushner, inappropriately worked to establish a back channel for talks with the Russian government during the transition.

Given these distractions, White House officials and top Republicans had hoped that an ambitious legislative agenda could stabilize the presidency heading into the August break.

White House officials plan to push Senate Republicans in June to vote on a repeal of the Affordable Care Act, and they want to spend the rest of the summer whipping up support for major tax cuts. They are also planning to push lawmakers soon to consider an infrastructure package, although that effort has also moved more slowly because his staff hasn't put together a final plan.

Each of these efforts has stalled either in the White House or in Congress, but Trump has pinned much of the blame on Senate Democrats. White House press secretary Sean Spicer said the president's "frustration" was that the White House's big-ticket items have bogged down because of Democrats' ability to block measures using filibuster rules. Republicans control 52 of the Senate's 100 seats, requiring them to get support from Democrats on many issues.

"Part of the reason that he is frustrated with the Senate rules is because when there is a majority of support on key issues — or key people, as the case was in the confirmation process — he

thinks it's standing in the way of progress that the American people have asked for," Spicer said.

But critics from both parties have said the lack of progress is a reflection in part of Trump's inability to marshal votes or persuade lawmakers to follow his lead.

Trump "is the least policy-aware, policy-knowledgeable, policy-driven president that I can remember, maybe that we've ever had," said David Boaz, executive vice president of the Cato Institute, a libertarian think tank. "Most of the Republicans do have some kind of coherent framework through which they see things."

To pass an overhaul of the tax code with just 51 votes, lawmakers must agree on a budget resolution, which could be a difficult task for a divided GOP.

Republican leaders in Congress are unsure how they will do this because of stark differences within the GOP over whether to prioritize defense spending or deficit reduction. The procedural vote is crucial because it would pave the way for them to need only a simple majority — instead of 60 votes — to pass comprehensive changes to the tax code.

In a private meeting of House Republicans this past Thursday, numerous members warned about the strict budget caps that would decimate defense spending starting in the fall. Those caps cannot be lifted unless Republicans strike a deal with Senate Democrats, who in past negotiations have demanded increases in nondefense spending.

Complicating matters further, Treasury Secretary Steven Mnuchin has told Congress that he wants the debt ceiling to be raised before the August recess, a move that would force uneasy Republicans to take a gut-wrenching vote opposed by many hard-line conservatives.

Top Trump administration officials — including Mnuchin, Office of Management and Budget Director Mick Mulvaney and White House National Economic Council Director Gary Cohn — are expected to come up with a strategy soon for how to handling the looming debt-ceiling vote.

The federal government spends more money than it brings in through revenue, and it covers the difference by issuing debt to essentially borrow the money. It can only borrow money up to a certain level set by Congress. There are several ways to measure government debt, but debt subject to the limit is now essentially $19.8 trillion.

In 2015, President Barack Obama and Congress agreed to suspend the debt ceiling until mid-March, and now the Treasury Department is suspending certain payments to allow the government to continue paying its bills until Congress can agree to raise or suspend the limit again.

If Americans pay taxes at a slower rate than expected — and there are signs that this is happening now — the government could run out of money sooner than anticipated, a quandary that has forced Treasury to push for a vote by August.

Lawmakers will only be in Washington for seven more weeks before the August recess, and Senate Republicans are not close to an agreement on the actual bills they might debate regarding taxes, health care or the debt limit.

Each of the past five presidents enacted legacy-defining legislation during their first seven months in office, something Trump has yet to do.

"This is a president who knows very little, who reads almost not at all, and who is indifferent to details, which is what legislation is all about," said Rep. Gerald E. Connolly (D-Va.). "And translating some broad idea into legislation requires a certain amount of attention and legerdemain this man simply does not possess, and at 70, he's not going to develop it."

Rep. Charlie Dent (R-Pa.), a senior House appropriator, said he doubts whether Republicans alone can pass a debt-ceiling increase and urged Trump and congressional leaders to spend June and July negotiating a deal with Democrats that would extend the debt limit, set new spending numbers and possibly extend the Children's Health Insurance Program, whose funding lapses on Sept. 30.

That, Dent said, would "open up time and space" to deal with meatier policy issues such as health care and taxes later. But until the fiscal issues are resolved, he said, "You have no choice."

The scramble by the White House comes after four months of false starts and distractions. Republicans won confirmation of a Supreme Court justice and Congress has voted to roll back numerous regulations, but the three key planks for their domestic agenda — health care, taxes and infrastructure — have stalled.

A revised health-care bill narrowly passed the House, but Senate Republicans have signaled that they want to start from scratch.

On taxes, the White House issued a one-page blueprint for overhauling the tax code but provided no new ideas or details when it unveiled its budget plan last week. Trump, in a Monday Twitter post, also claimed the tax effort was "actually ahead of schedule."

The tax overhaul effort is actually behind schedule: Mnuchin pushed for it to be passed by the August recess, but lawmakers have not advanced a tax bill through a House or Senate committee.

To win more support, some lawmakers are considering dramatically scaling back Trump's tax cut plan, people briefed on the discussions said. Trump has proposed lowering the corporate tax rate from 35 percent to 15 percent, but Republicans could pursue a tax rate that's somewhere in the middle.

One reason Senate Republicans have not unified behind a central plan on health care or taxes is because top White House officials — including Trump — do not seem to be in lockstep on the issues.

Trump wrote in a Twitter post Sunday night that "we [should] add more dollars to Healthcare and make it the best anywhere." But several days before, he proposed cutting between $800 billion and $1.4 trillion in future spending on Medicaid, the health care program for low-income

Americans. Spicer would not say on Tuesday where Trump wanted to add more money to health care.

Several top White House aides warned against discounting their chances of legislative success, saying key pieces could quickly fall into place after a concerted effort this summer.

"We've got a pretty bold agenda," Spicer said. "He's still pushing hard on health care. Infrastructure is a priority of his. So the president's legislative agenda is in full swing."

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EPA Regulatory Review Floodgates Open, Leaving Pruitt to Mop Up

Bloomberg BNA

By: Andrew Childers

Published: May 31, 2017

When asked which EPA regulations stifle economic growth and should be reconsidered or rescinded, industry groups responded, "All of them."

High-profile Obama-era regulations limiting carbon dioxide from power plants or establishing the reach of the Clean Water Act, which Environmental Protection Agency Administrator Scott Pruitt had opposed, will certainly be targeted. However, businesses are left wondering whether the agency, which so far lacks political appointees to run the EPA's water, chemicals and air pollution offices, will have bandwidth to tackle a host of other, less splashy regulatory fixes that could reduce costs or ease burdens.

"We're in new territory. It's a process that has no clear precedent within the federal system," Randall Lutter, a professor of public policy at the University of Virginia and a former senior economist at White House Office of Management and Budget under President Barack Obama, told Bloomberg BNA.

Open the Floodgates

The EPA has received a barrage of requests from regulated industries to open and reconsider regulations from every sector the agency touches. The requests range from drastic changes to the way the agency regulates air pollution—Ameren suggested replacing the agency's ambient air standards with pollution trading programs—to the more targeted—the American Water Works Association recommended that the EPA streamline its application process for loans to improve drinking water systems.

While a host of industries are looking ease their regulatory burdens, chemical manufacturer Chemours Co. actually went to bat for Obama-era rules that approved new chemicals to replace ozone depleting substances and clamped down on leaks from refrigeration equipment. The chemical company recommended that Pruitt retain those rules.

Environmental and public health groups, of course, vow to fight any attempt to weaken EPA protections, with Earthjustice, the Sierra Club, and Clean Air Task Force calling the regulatory review process "an illegal and arbitrary sham."

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P.Bloomberg BNA is an affiliate of Bloomberg L.P.

The Waterkeeper Alliance also dismissed the process as rushed and opaque, calling on the EPA to provide more details about how it will manage the review process and decide which regulations will be reevaluated.

Who's Driving the Process?

Every new administration takes office vowing to streamline the regulatory process, but Trump has taken that further than ever before, requiring agencies to repeal two regulations for every

new directive issued and capping costs that can be imposed on industries. It's an ambitious plan to transform the regulatory state, but seeing that process through will require coordination and planning. Right now the EPA is short of the political appointees necessary to make those decisions.

"In any one of these big rulemakings, there are dozens of intermediate decisions made along the way," Jeffrey Holmstead, a partner at Bracewell LLP in Washington, D.C., who previously served as the EPA's assistant administrator for air pollution in the George W. Bush administration, told Bloomberg BNA. "If you have the administrator sign off on every one, you can only do two or three."

Trump lags behind his predecessors in staffing the EPA, according to data provided by the Center for Presidential Transition. So far only Pruitt has been confirmed, and Susan Parker Bodine, Trump's pick for the agency's enforcement office, is awaiting confirmation. The Trump EPA lacks nominees to head the water, air and chemicals offices who will be central to the regulatory review process.

Unlike past administrations, though, Trump has made easing burdens on businesses central to his domestic priorities.

"The biggest single difference is that Trump has appointed someone to be EPA administrator whose primary focus is on reducing the regulatory burden," Holmstead said.

When President George W. Bush took office, his EPA preferred legislative rather than regulatory approaches, Holmstead said. But when bills such as the Clear Skies Act faltered in Congress, that's when the Bush administration attempted to regulate pollutants such as mercury emissions from power plants.

"In the air office, we were not as ambitious as the Trump administration when it comes to regulatory reform," Holmstead said.

What's unknown is how the EPA will make decisions on which regulations it will target and

when that process will get started. An EPA spokesman could not be reached for comment.

Without assistant administrators to guide the process, Pruitt has appointed a regulatory reform task force of Ryan Jackson, the chief of staff; Byron Brown, the deputy chief of staff for policy; and Brittany Bolen, deputy associate administrator of the Office of Policy, to oversee the effort. All three previously served on the Senate Environment and Public Works Committee with past Chairman James Inhofe (R-Okla.), who was a vocal critic of the Obama EPA's regulations.

"They are certainly knowledgeable enough to be looking for more regulations to be going after," Inhofe told Bloomberg BNA. "And they are doing the job pretty well."

While agencies are tasked with implementing the regulatory reform efforts, the White House will still play a significant role in reducing compliance costs through the Office of Information and Regulatory Affairs, which reviews regulations, said Tracy Mehan, executive director of the American Water Works Association's government affairs office.

"No doubt in a Republican administration, OIRA is very much empowered—not that they were pushovers in the Obama administration, but it's fair to say they're going to be more empowered," Mehan, who previously served as the EPA assistant administrator for water under President George W. Bush, told Bloomberg BNA.

However, Neomi Rao, Trump's pick to head that office, also hasn't been confirmed.

Smaller Fixes Have Big Benefits

While rolling back the Clean Power Plan and replacing the Waters of the U.S. rule are top priorities for Pruitt, more modest updates to the EPA's various regulations could provide the biggest long-term boons for businesses. Many industry groups in their comments are targeting smaller adjustments to existing regulations that they say can be quickly updated to reduce costs and make them more efficient.

For example, the Class of '85 Regulatory Response Group, a coalition of 30 utility companies, suggested the agency eliminate unnecessary air pollution monitoring requirements. The Association of Air Pollution Control Agencies recommended streamlining a variety of air pollution permitting provisions to ease burdens on both businesses and state permitting officials.

"Those [smaller fixes] would be valuable investments of time," Megan Berge, a partner at Baker Botts LLP who represents utilities and other industries, told Bloomberg BNA. "Those are the investments that have the possibility of having a lasting good in terms of making these programs efficient."

Taking on the EPA's largest regulations will spark an inevitable battle with environmental groups, which could bog down the entire effort. But tackling some of the smaller changes sought by businesses could be a way for the Trump administration to claim some quick victories.

"The good news is that, at least from EPA and the administration's perspective, these slight deregulatory acts are somewhat quicker than the big rules," Sam Batkins, director of regulatory policy at the American Action Forum, which has argued many EPA regulations have costs that exceed benefits, told Bloomberg BNA. "Maybe to some extent they can prioritize the small, minor tweaks to the rules and generate some savings."

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Cuts to EPA's workforce harm the agency's mission — or do they?

Federal News Radio

By: Meredith Somers

Published: May 30, 2017

Environmental Protection Agency employees and workforce advocates say budget-related personnel cuts will severely wound an agency that's already been cut to the bone, but a new

management report from the EPA's Office of Inspector General warns the agency needs to get a better handle on its workforce and workload if it wants to properly defend its payroll.

For the sixth year in a row, the EPA failed to properly assess its workload — and determine the amount of people needed to accomplish that work — according to the fiscal 2017 EPA Management Challenges report.

"The EPA needs to more broadly quantify what its full workload entails so that it can more effectively prioritize and allocate available resources to accomplish agency work," the report stated. "The EPA's ability to assess its workload and estimate workforce levels necessary to carry out that workload is critical to mission accomplishment."

According to the management challenges report, between 2005 and 2017 EPA studied workload issues six times, and spent about $3 million in the process.

"For the most part, the EPA has not used the findings resulting from these studies," the report said. "According to the EPA, the results and recommendations from the completed studies were generally not feasible to implement."

The agency launched "limited pilots and surveys" to address workforce workloads, and in January 2016, published a Funds Control Manual. The document included tools to help EPA programs compare hours of work and workload.

But EPA has not implemented the results of the manual, the management report stated.

"In the latest response to this management challenge, the EPA stated that rather than trying to create detailed FTE [full-time equivalent] models, the agency focused its workload analysis on current operations," the report stated. "The agency found that detailed FTE models created a sense of false precision; quickly became out of date due to changing regulations, requirements and systems; and were overly sensitive to relatively small changes in the inputs."

The report's findings broaden the conversation around EPA's workforce and ongoing budget negotiations.

The proposed budget for EPA in 2018 is $5.7 billion, compared to the $8.1 billion 2017 enacted amount. The coming fiscal year proposes 11,611 FTEs, a reduction of about 3,800 positions from last year.

EPA lost more than 2,100 positions between fiscal 2012 and 2015, according to the report. The EPA's OIG reported that in 2014, the agency spent $16.2 million under its VERA-VSIP authority — $11.3 million for early out/buyout incentives for 456 employees, and $4.9 million in annual leave payments.

"Without a clear understanding of its workload, it is unclear whether this decline jeopardizes the EPA's ability to meet its statutory requirements and overall mission to protect human health and the environment, or if the decline represents a natural and justifiable progression, because the EPA has completed major regulations implementing environmental statutes and states have assumed primacy over most media programs," the report stated.

EPA is setting aside $12 million to help cover early buyouts and early retirements triggered by President Donald Trump's government reorganization directive.

Among the things EPA can and is doing to address this management challenge is completing its workforce planning tool. According to the OIG's report, EPA launched the tool's pilot in the first quarter of fiscal 2017.

The tool compares needed skills with the current supply of skillsets, "so that competency gaps can be identified and addressed through strategic hiring and training/development."

The tool is expected to be available to the entire agency by the end of fiscal 2017.

Cyber challenges

The IG's report included two other areas where EPA can make improvements. They include enhancement of IT security, and improved oversight of states, territories and tribes.

The office removed one management issue from the list, which related to management oversight for fighting waste, fraud and abuse.

IT security started as a management challenge for EPA in fiscal 2001. While EPA's Office of Environmental Information strengthened the agency's network infrastructure, because cyber threats are always evolving, it's important to highlight the need to "proactively manage and bolster the agency's cybersecurity capabilities," the report stated.

"Despite progress made by the agency to strengthen cybersecurity, recent audit work continues to highlight that fully implementing information security throughout the EPA requires continued senior level emphasis to address long-standing weaknesses within the information security program," the report stated. "Most notably, the EPA has yet to implement practices for its information security program to be considered effective for the five Cybersecurity Framework security functions defined by the National Institute of Standards and Technology."

Last year, the agency received $27 million for cybersecurity.

The EPA IG directed the agency to make a half-dozen changes to how it addresses cyber issues, including dedicating resources to an Audit Follow-Up Coordinator position within the Office of Environmental Information. The position is important for keeping an eye on audit recommendations and ensuring the agency is taking steps to close them.

In that same vein, the IG instructed EPA to develop a process that ensures open audits are addressed, and corrective actions are started and finished — or at least communicated and reported on within the Audit Follow-Up Coordinator.

Ensuring contractors meet IT requirements is also part of the IG's recommended actions for the cyber management challenge.

Correcting problems

EPA's inspector general also highlighted an "absence of robust oversight" of states, territories and tribes, when it comes to the implementation of environmental laws.

"The EPA has the authority and responsibility to enforce environmental laws when states, territories and tribes do not," the report stated. "Many EPA programs implement a variety of formal and informal oversight processes that are not always consistent across EPA regions and the states, territories and tribes."

This kind of oversight has been a management challenge for EPA since fiscal 2008, the IG said, and while the agency has improved its review and measurement of inconsistencies in these areas, it hasn't always used its authority.

To demonstrate a commitment to this oversight, the report stated, "the agency should show it has the capacity and has developed a framework for addressing oversight issues. The agency also needs to develop a system for monitoring state, tribal and territory oversight effectiveness so that it can work toward demonstrating its progress in correcting this management challenge."

This year's budget proposes $2.7 billion in state and tribal assistance grants, compared to the $3.5 billion in fiscal 2017.

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Ex-EPA spokesman heads to United Airlines

Greenwire

By: Kevin Bogardus

Published: May 31, 2017

Frank Benenati, who led public affairs at U.S. EPA during the Obama administration's final year, has moved to the aviation industry.

Benenati has joined United Airlines. He is working as the airline giant's director of corporate communications.

"Excited to join the United Airlines team today as the new Director of Corporate Communications," he tweeted yesterday.

Benenati comes to United during a rough ride in the national spotlight. The airline has come under heavy scrutiny after it had a passenger forcibly removed from a flight — an episode that was caught on video and went viral on social media.

At EPA, Benenati's official title was associate administrator for the Office of Public Affairs. Benenati joined the agency in June 2016 after Liz Purchia's departure (*E&E News PM*, June 6).

Before coming to EPA, Benenati worked in the Obama White House press office, where he handled energy and environmental issues, and earlier was a spokesman for the Office of Management and Budget.

He racked up campaign experience by working as a regional press secretary for Ohio and Virginia for Obama's 2012 re-election bid. Benenati also worked in the House and for the Democratic National Committee.

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EPA Head's Kentucky Visit Faces Opposition

Public News Service

By: Mary Kuhlman

Published: May 31, 2017

LEXINGTON, Ky. - Scott Pruitt, head of the Environmental Protection Agency, brings his "Back to Basics" tour to his native Kentucky today, but not everyone plans to welcome him home with open arms.

As Pruitt meets with the Kentucky Association of Manufacturers in Lexington, hundreds of people from around the state are gathering to protest. Pruitt has said his agenda calls for returning power to states and creating policies that enhance economic growth. But Hank Graddy, water chair with the Cumberland Chapter of the Sierra Club, contends it's a false promise and a return to a dangerous and unhealthy past.

"Scott Pruitt is not going to be able to change history. He is going to delay progress, but he can't bring back the coal industry," Graddy said. "That era is over. We need to move on to the energy of the future."

Graddy noted that in Pruitt's short time as EPA administrator, he already has proposed reducing or eliminating clean-air and clean-water policies that protect the health of Kentuckians.

Tom Sexton, a Sierra Club organizer in eastern Kentucky, said the writing is on the wall, and folks are becoming more interested in sound environmental policy than they had been in the past.

"If you look at eastern Kentucky," he said, "there's tremendously high cancer rates and other ill-health effects that, if you look at the long history of mining practices, you can start to draw some connections."

Sexton said the Commonwealth deserves a future of clean-energy jobs, and policies that move the state away from the environmental degradation of the past.

"Everything from our mountains being blown up and the other sort of related environmental effects - acid mines, drainage streams - and we deserve an agency head that's going to try to rectify some of those problems," Sexton said.

Today's protest and march is to begin at noon at Triangle Park. Organizations sponsoring today's

event include the Sierra Club, Kentuckians for the Commonwealth, Indivisible KY and the Rubbertown Emergency Action Task Force.

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The results are in: EPA good, China bad

The Hill

By: John Davis II, Opinion Contributor

Published: May 30, 2017

If EPA Administrator Scott Pruitt hoped for a wave of fact-based arguments from the American public in response to the agency's public notice on April 17 about regulations to consider for change or repeal, he must be disappointed.

The vast majority of publicly viewable comments made in response to President Trump's Executive Order 13777 were anonymous, broad statements of support for the EPA.

Most commended the agency's positive performance during the last four decades, citing it as a force for improving the nation's air and water quality.

As a caveat, my analysis here is limited by the fact the EPA has only made 36,040 of the 182,488 comments viewable to the public — a glaring lack of transparency for reasons unclear.

In other words, a preponderance of the public comments attacked the very legitimacy of the president's executive order itself, which invited criticism of the nation's entire environmental regulatory system, based on cost-benefit analyses. Instead, what was submitted were tens of thousands of general comments along the lines of "keep your hands off the EPA."

In the preponderance of direct references to the EPA itself, sentiment indicates a mostly favorable opinion of the agency. Phrases such as "I like," "regulations are important," and "I support protections," characterize the overall tenor of comments surrounding the agency.

The online page provided by the EPA for submitting comments was an overly simple form that did not require any specific data fields — neither the submitter's name, address, nor organizational affinity, if any.

This basic info would have established personal identities and/or discernible political agendas, as well as enable the mining of geospatial insights about public opinion and sentiment from the comment dataset.

The submission form could have been designed instead to ensure public comments were directly responsive to the criteria defined by the executive order, prompting submitters to cite relevant grounds for the EPA to consider regarding regulations ripe for change or repeal.

The list of six defined criteria were made plain in the president's order, including whether a regulation inhibits job creation; is outdated, unnecessary, or ineffective; or imposes costs that exceed benefits.

Each of the specified criteria could have been made a simple checkbox in the submission form, thus allowing reviewers to immediately understand on what basis a commenter requested that the EPA review a specific regulation.

Instead, all submitters were provided was a blank comment box, requiring less detailed info than one typically provides when ordering a pizza online.

A quick survey of the sentiment expressed in the 671 comments where China is mentioned indicates the country is mostly cited in negative contexts, typically as a nation where environmental conditions are deplorable, thanks to the absence of an effective regulatory agency such as the EPA.

With such a lack of clear guidance from the EPA's submission form, I would argue the resulting vague and overly general comments were probably predictable. The skeptic in me wonders whether the entire exercise was intended from the start to elicit the type of nonspecific arguments actually received.

The EPA can plausibly argue now it followed the president's executive order, but that the public failed to produce much in the way of substantive arguments to repeal or replace any specific regulations.

On second thought, perhaps the landslide of "hands-off the EPA" responses are not so irrelevant to the process after all. The Administrative Procedures Act, which provides legal authority for the notice and comment process, requires public arguments to be duly considered in rulemaking.

This includes "do nothing" as a legitimate position to take against a regulatory proposal. "Leave the EPA alone," the apparently dominant theme of public comments responding to the regulatory reform notice, in effect is an argument to do nothing.

Beyond a lack of guidance contained in the comment submission form, I would argue there was a notable lack of public outreach as well by the EPA to create awareness about such an important regulatory reform process.

Considering roughly 300 million citizens in the U.S., the 182,488 comments made represent less than one-tenth of one percent of the population — people who knew about the notice and responded within the 30-day comment period.

When the IRS wants to find a person, chances are highly likely they will make contact.

Why can't the federal government demonstrate similar diligence and creativity when it comes to seeking input from citizens on critical issues of governance, such as the president's Executive Order 13777?

Participation rates could be greatly expanded through mass media outreach on all the obvious channels.

Public service announcements about open comment periods on broadcast stations, news outlets, social media platforms, and traditional snail-mail, would encourage broader citizen awareness and engagement.

Under the president's order, all federal agencies are required to undertake similar regulatory reform initiatives similar to the EPA's public notice in April.

Can we at least expect a somewhat more detailed submission forms to guide the public in making more relevant comments going forward, and to make the resulting data sets more useful for gaining insights with advanced analytics?

The economic impact of federal regulations is estimated at $2 trillion annually. Shouldn't the government spend a little money if necessary to spread the word to the public about important regulatory reform processes underway, and when and how they can have an influence?

Creating comment submission forms with more than just one field, and broadcasting some public awareness messages doesn't seem too much to ask.

John W. Davis II is founder and chief executive officers of N&C, provider of the regulatory data analytics solution Regendus. Davis previously served as director of the Homicide and Major Crimes Bureau as a federal prosecutor for the U.S. Virgin Islands Justice Department.

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What's a 'Covfefe'? Trump Tweet Unites a Bewildered Nation

The New York Times

By: Matt Flegenheimer

Published: May 31, 2017

Donald J. Trump
@realDonaldTrump

Follow

Despite the constant negative press covfefe

RETWEETS 127,484 LIKES 162,762

9:06 PM - 30 May 2017

WASHINGTON — And on the 132nd day, just after midnight, President Trump had at last delivered the nation to something approaching unity — in bewilderment, if nothing else.

The state of our union was … covfefe.

The trouble began, as it so often does, on Twitter, in the early minutes of Wednesday morning. Mr. Trump had something to say. Kind of.

"Despite the constant negative press covfefe," the tweet began, at 12:06 a.m., from @realDonaldTrump, the irrepressible internal monologue of his presidency.

And that was that.

A minute passed. Then another. Then five.

Surely he would delete the message.

Ten. Twenty. It was nearly 12:30 a.m.

Forty minutes. An hour. The questions mounted.

Had the president's lawyers, so eager to curb his stream-of-consciousness missives, tackled the commander in chief under the cover of night?

Perhaps, some worried aloud, Mr. Trump had experienced a medical episode a quarter of the way through his 140 characters.

No one at the White House could immediately be reached for comment.

By 1 a.m., the debate had effectively consumed Twitter — or at least a certain segment of insomniac Beltway types, often journalists and political operatives — ascending the list of trending topics.

Diane N. Sevenay
@Diane_7A
Follow

"Of course #covfefe is real word. It was coined during the Bowling Green Massacre."
12:29 AM - 31 May 2017
1,704 3,600

emily nussbaum
@emilynussbaum
Follow

It's been five minutes. What if this is it. That is his final tweet & the rest of history stops.
12:13 AM - 31 May 2017
434 2,393

Some appeared to temper their whimsy as a more sobering news story dominated the medium: a huge explosion shaking Kabul, leaving dozens dead or wounded.

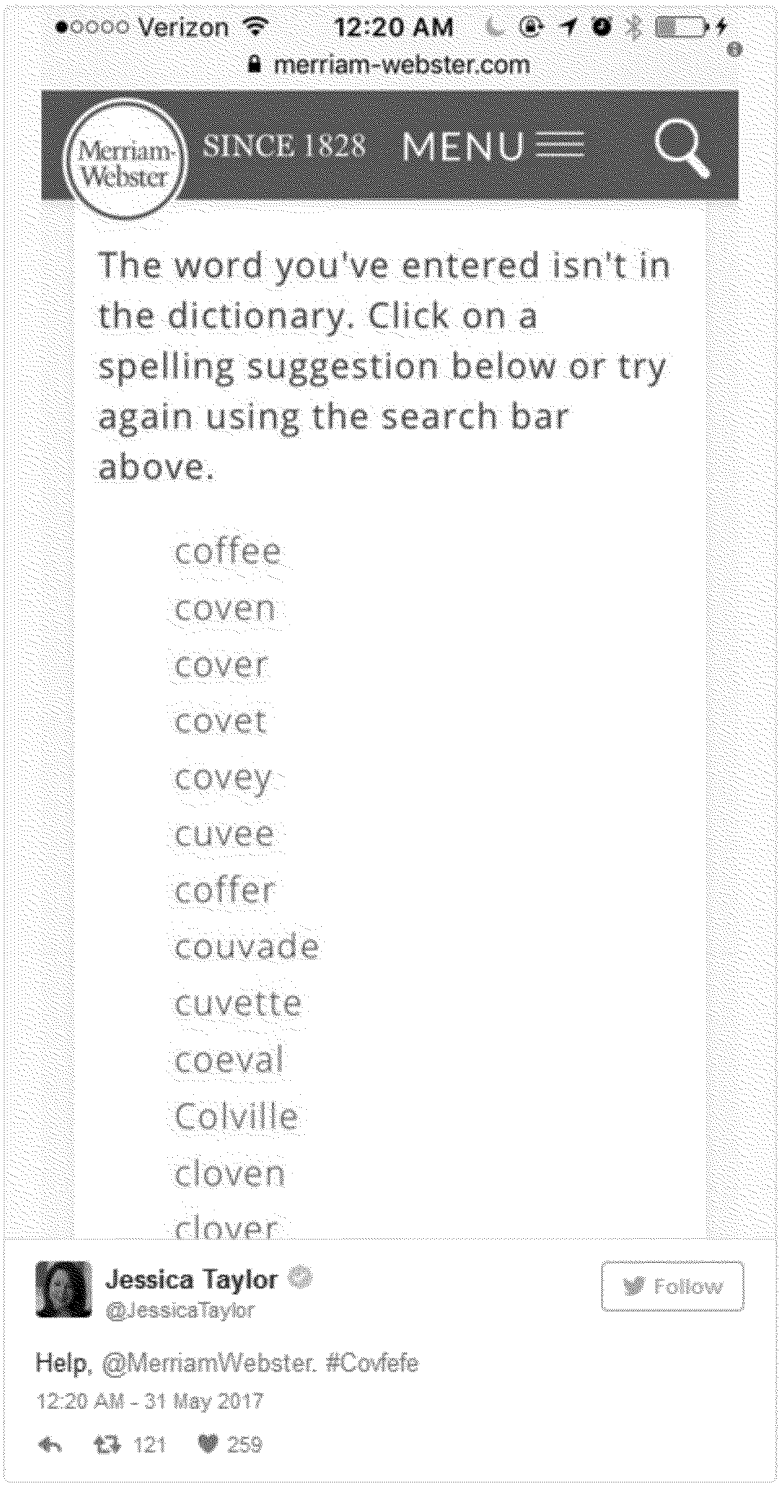
But the instinct to linger was powerful, for those who had glimpsed the initial post, even if they did not seem entirely sure why they were still awake.

Tasneem Raja
@tasneemraja
Follow

Covfefe. There, I participated.
1:01 AM - 31 May 2017
49 311

Eventually, the jokes lurched into delirium. Twitter users held forth on the former F.B.I. director James Covfefe. They pledged to order a grande covfefe during their next Starbucks runs. They announced they had at last discovered what Bill Murray whispered to Scarlett Johansson at the end of "Lost in Translation."

And as the hour wore on, stragglers turned their lonely eyes to the only account that could save them.



The dictionary obliged.

"Wakes up. Checks Twitter. Uh..." it began. "Regrets checking Twitter. Goes back to bed."

The president's tweet was finally deleted after about six hours. But he was not done.

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To: Gibson, Benjamin[gibson.benjamin@epa.gov]; Gray, Stuart[Gray.Stuart@epa.gov]; Long, Pam[Long.Pam@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Perlmutt, Lars[perlmutt.lars@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]; Spangler, Matthew[Spangler.Matthew@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Sutton, Lisa[Sutton.Lisa@epa.gov]; Vetter, Cheryl[Vetter.Cheryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Johnson, Yvonne W
Sent: Mon 5/15/2017 3:39:25 PM
Subject: News Clips - May 15, 2017

News Clips – May 15, 2017

Air News

•□□□□□□□□ Greens protest bid to halt Wyo. regional haze case *(Greenwire)*

Climate Change

•□□□□□□□□ Occidental Petroleum shareholders make history with climate vote *(Climatewire)*

•□□□□□□□□ Texas Group Petitions EPA for Softer Greenhouse Gas Rules *(San Antonio Current)*

Coal News

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On this day in 1940 McDonald's opens its first restaurant in San Bernardino, California

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Greens protest bid to halt Wyo. regional haze case

Greenwire

By: Sean Reilly

Published: May 12, 2017

Conservation advocacy groups are strongly opposing a state and industry bid to freeze litigation over U.S. EPA regional haze regulations that target several coal-fired power plants in Wyoming.

The requested hold would not only delay a legal resolution until at least 2019 but also would postpone "life-saving pollution reductions that are also essential to improving visibility in our national parks and wilderness areas," lawyers for the Powder River Basin Resource Council and several other organizations wrote in a filing yesterday with the 10th U.S. Circuit Court of Appeals.

Attached to the filing is a lengthy declaration by George Thurston, a New York University professor of environmental medicine, who wrote that delay of even a matter of months "carries the risk of substantial, and irreparable, harm to public health."

The filing came in response to last week's motion by the state of Wyoming and two power producers — PacifiCorp and Basin Electric Power Cooperative — to halt proceedings in the case after the Trump administration blessed a partial settlement reached last year for Basin Electric's Laramie River Station (*Greenwire*, May 2).

All, including the conservation groups, are challenging various aspects of the EPA haze regulations published in early 2014 that the agency predicted at the time would cumulatively cut emissions of nitrogen oxides by 65,000 tons annually (*Greenwire*, Jan. 13, 2014).

In seeking to pause proceedings in the consolidated lawsuits, the state and power producers argue that the issues are so intertwined that a halt is warranted until EPA takes final action on the settlement. EPA, while urging a hold on the portion affecting the 1,710-megawatt Laramie River plant in southeastern Wyoming, is taking no position on the bid for a broader freeze. Implementing the settlement will take at least two years, according to yesterday's filing.

The haze program, dating in its current form to 1999 but seriously enforced only within the last few years, has a goal of restoring pristine views to 156 national parks and wilderness areas by 2064. Under the Obama administration, the upshot was a string of cross-cutting legal battles over the stringency of new controls needed to bring plants into compliance.

The conservation groups contend, for example, that EPA should have also imposed new curbs on the state's oil and gas industry. Oregon-based PacifiCorp is fighting EPA's decision to override the state's judgment of the controls required to cut emissions at its 335 MW Wyodak plant in

northeast Wyoming.

Basin Electric, based in North Dakota, shares ownership of Laramie River Station with five regional partners under the umbrella of the Missouri Basin Power Project. Besides the Powder River council, the conservation groups challenging the haze regulations are the National Parks Conservation Association, the Sierra Club and the Wyoming Outdoor Council. Representing them is Earthjustice.

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Occidental Petroleum shareholders make history with climate vote

Climatewire

By: Benjamin Hulac

Published: May 15, 2017

Occidental Petroleum Corp. stockholders have demanded the company produce a report detailing how climate change threatens its business.

The resolution passed at the company's annual meeting Friday was the first time in history stockholders at a U.S. oil company successfully required a climate stress test. Companies have fought such provisions for years.

State pension funds from California, Connecticut and New York were the lead filers of the resolution, along with Wespath Investment Management and the Nathan Cummings Foundation.

"The passing of this resolution is a sign of progress. It is a first in the United States," said Anne Simpson of the California Public Employees' Retirement System. "This vote shows that investors are serious about understanding climate risk."

In an emailed statement, Eugene Batchelder, chairman of the Occidental board, said the company looked forward to "continuing our shareholder engagement on the topic and providing additional disclosure about the company's assessment and management of climate-related risks and opportunities."

A company spokesman, citing filings with the Securities and Exchange Commission, said the company is "expanding" how it discloses climate change issues. Occidental opposed the resolution.

Despite the victory for the environmentally minded at Occidental, investors have been making painstaking gains to prod the oil and gas industry to examine how climate change, and government attempts to slash greenhouse gases, threatens its business.

The industry has been doing so lethargically, in particular at U.S. firms, according to a new report.

Study finds weak goals

A study by a group of climate investment groups — Ceres, CDP, the Asia Investor Group on Climate Change, the Investor Group on Climate Change and the Institutional Investors Group on Climate Change — of 10 oil and gas multinationals found varying degrees of global warming policy.

Eight companies have supported the Paris climate deal, and eight also disclose their downstream emissions.

Still, supporting the Paris accord and disclosing emissions neither forces them to commit any money to low-carbon investment nor requires them to cut emissions.

Indeed, only four have set emissions reduction goals, the report found.

The companies analyzed are Occidental, Exxon Mobil Corp., Chevron Corp., ConocoPhillips Co., Suncor Energy Inc., Royal Dutch Shell PLC, BP PLC, Total SA, Eni SpA and Statoil ASA.

The report praises European majors Statoil, Eni and Total as more climate-savvy than their peers. It also comes as companies are hosting and preparing for their annual meetings, including those for Exxon, Chevron, ConocoPhillips, Shell, Total and BP, each this month.

While the resolution passage at Occidental was an aberration in the history of shareholder activism on climate change issues, with the help of major investors, it may kick off a trend.

BlackRock Inc., the world's biggest asset manager with more than $4 trillion, announced in March it would consider voting its stocks at company meetings, with an eye specifically to the financial risks of climate change (*Greenwire*, March 13).

Its "yes" votes on behalf of its roughly 8 percent of all Occidental shares helped push the stress-test proposal beyond the 50 percent mark.

The Wall Street bank JPMorgan Chase & Co. last month made a comparable announcement to BlackRock's (*Climatewire*, April 5).

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Texas Group Petitions EPA for Softer Greenhouse Gas Rules

San Antonio Current

By: Monica Simmons

Published: May 15, 2017

Texas Public Policy Foundation, a conservative think tank whose mission is to influence policymakers with "academically sound research," is petitioning the Environmental Protection Agency to retract a policy that regulates greenhouse gas emissions — which critics argue would essentially nullify one of the most important reasons for the agency's existence.

The policy that TPPF hopes to eliminate is called the 2009 Greenhouse Gas Endangerment Findings. Set in place by the Obama Administration, the rule was EPA's way of determining that federal regulators are legally required to regulate "greenhouse" emissions that cause global warming and pose a threat to human health and welfare. It is the basis for essentially all EPA policy that monitors carbon, methane, and other greenhouse gases.

Together with a coalition of energy, construction, trucking, logging, and manufacturing partners, TPPF filed a petition saying that the Obama Administration failed to properly vet the greenhouse gas finding with the agency's official Science Advisory Board.

Which is a nonsense argument, according to Neil Carmen, Sierra Club's Texas Clean Air Program Director. He says that there are plenty of valid EPA standards that never pass through that advisory. Just browse through the mammoth Clean Air Act, Carmen said, and you can find hundreds of rules that the advisory board hasn't evaluated.

Meanwhile TPPF, whose financial backers have included oil industry leaders like Exxon, and whose very own director was vetted by Trump's administration as a candidate for EPA director, simply wants to see the EF disappear.

While the courts have upheld the EPA's authority to regulate greenhouse gases, what makes this latest challenge from TPPF and industry groups different is timing. The agency has already signaled a new direction on climate change and the regulation of globe-warming greenhouse gases. Under Trump, the EPA has already backtracked on efforts to catalog emissions from oil and gas producers and has removed of any mention of global warming from its website.

TPPF attorney Ryan Walters said this in a prepared statement: “The EPA may reverse the prior administration’s decisions and interpretations of the statutes it administers, even where courts have upheld the previous policies.”

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In trying to look tough on trade, Trump

hurts coal

Greenwire

By: Benjamin Storrow

Published: May 15, 2017

Donald Trump campaigned on a promise to revive coal and renegotiate America's trade deals. But in seeking to fulfill one pledge, he may have unwittingly hampered another.

After the Trump administration decided to impose countervailing tariffs on Canadian softwood lumber imports, the premier of British Columbia, Christy Clark, asked the Canadian government to ban U.S. imports of thermal coal used for electricity production (*Greenwire*, April 27). Prime Minister Justin Trudeau has taken the idea under consideration but has yet to announce a position.

It's difficult to know if Clark will follow through on her proposal. On the one hand, the softwood lumber industry is central to British Columbia's economy. But her center-right Liberal Party is also a big fan of fossil fuel projects like Kinder Morgan Inc.'s controversial Trans Mountain oil pipeline. Banning coal would mark a shift.

Many chalked her comments up to election-year politicking. Clark's Liberals were in the middle of a bruising campaign with the center-left New Democratic Party for control of the provincial government in Victoria when she first raised the idea.

Now, her hands might be tied. The Liberals won 43 seats in last Wednesday's elections, more than any other party, but not enough to claim a majority. The center-left NDP claimed 41 seats. That has put the Green Party, which won three seats, in place to be kingmaker. Andrew Weaver, the Green Party leader, is a climate scientist.

"No one is going to be able to govern without the Greens," said Matt James, a professor of

political science at the University of Victoria. "They could get carbon taxes, an export tax on coal; they could stymie the pipeline."

All the politicking obscures perhaps an even more pressing point: the important role Canadian ports play in supporting the U.S. coal industry.

The last bridge to Asia

There was a time, not so long ago, when U.S. coal miners dreamed of sending coal en masse to Asia. A series of major terminals were planned in Washington and Oregon. But those projects have been stymied by local opposition and the challenging economics of loading coal onto ships and sending it halfway around the world.

"The terminal projects are essentially on their last legs," said Joe Aldina, a coal analyst for S&P Global's PIRA Energy Group.

That essentially leaves British Columbia as American coal miners' only effective bridge to Asia. There are smaller ports in California and the pricier option of shipping coal through the Gulf of Mexico, but most of the tonnage headed for Asia today is shipped through Westshore Terminals south of Vancouver.

FBR Capital Markets, an investment bank, estimates that up to 13 million tons of coal could be at risk in British Columbia. S&P puts the figure at 11 million tons. While British Columbia cannot unilaterally ban thermal coal imports, the province could levy a tax on U.S. shipments.

"The coal trade out of Vancouver is a fairly fragile thing. The margins are not much better than margins on domestic shipments," Aldina said. "Essentially, if you throw any type of tax on it, these exports essentially become uneconomic."

To be sure, thermal coal exports represent a tiny fraction of the U.S. coal business. By S&P's

calculations, 11 million tons represents 40 percent of projected U.S. thermal exports in 2017. Peabody Energy Corp. alone expects to sell 145 million to 150 million tons of coal in the United States this year. America's largest coal mining company is not a player in the U.S. thermal export market to Asia.

But to a few select firms that participate in the export market, the kerfuffle comes at an especially unwelcome time.

'Let's see how this plays out'

Westshore Terminals Investment Corp. in a letter to Trudeau said a third of its business is attributable to U.S. coal, supporting 100 full-time jobs, annually generating $100 million in revenues and $12 million in taxes.

Signal Peak, a privately held Montana-based mining firm, and Wyoming headquartered Cloud Peak Energy Inc. are the two predominant thermal exporters. Cloud Peak Energy shipped a mere 0.6 million tons to Asia last year after sending 3.6 million tons to the Far East in 2015. The Powder River Basin-based mining outfit is projecting exports of 5 million tons to Asia this year.

Cloud Peak CEO Colin Marshall sought to quell investors' worries in a recent call with financial analysts, noting the importance of coal exports to the provincial economy and saying, "Our ships are still going, so we've seen no impact yet. Let's see how this plays out."

British Columbia's election results could still shift. Absentee ballots are being counted. In some tight races, the margins are so slim the final outcome could yet change.

Analysts, for their part, are divided over the prospects of the province's taking action against coal.

Canada will not want to get drawn into a trade war with its largest trading partner over coal, a

commodity that represents a tiny fraction of the business between the two countries, Aldina reckons.

Others are less sure. Where talk of a coal ban would have been seen as political posturing in the past, Premier Clark now has to keep the Greens happy, noted Andy Roberts, a coal analyst at Wood Mackenzie, a consultancy.

"I think it does give the Green Party some leverage," he said. "We'll have to wait and see how that plays out."

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Trump picks Capitol Hill aide for enforcement chief

E&E Daily

By: Kevin Bogardus

Published: May 15, 2017

President Trump took another step to fill out U.S. EPA's ranks.

On Friday, he announced his intent to nominate Susan Bodine to be the agency's enforcement chief. Well-known in Republican circles with nearly three decades of experience in environmental law, she was long considered a likely pick for a top EPA spot in the Trump administration.

Since 2015, Bodine has been chief counsel for the Senate Environment and Public Works Committee, serving initially under Sen. Jim Inhofe (R-Okla.) and now under Chairman John Barrasso (R-Wyo.).

In a statement Saturday, Barrasso said that he was pleased with Trump picking Bodine for the EPA enforcement job and that he looked forward to holding a hearing on her nomination.

"Susan is committed to finding commonsense ways to protect America's land, air, and water," Barrasso said.

"In this new role, I know that she will work to help communities and small businesses comply with the law, while holding polluters accountable."

She also has prior experience at EPA, having been head of the agency's solid waste office during the Bush administration.

In addition, Bodine served in the House as staff director and counsel for the House Transportation and Infrastructure Subcommittee on Water Resources and Environment.

Her legal work has won her fans in industry. Scott Segal, an energy lobbyist at Bracewell LLP, called Bodine "a skilled professional and an accomplished lawyer in and out of government service."

The University of Pennsylvania Law School graduate also had stints in private law, first as an associate at Covington & Burling and later as a partner at Barnes & Thornburg.

Bodine earned her undergraduate degree from Princeton University.

Trump's second EPA nominee

Selected as EPA's assistant administrator for enforcement and compliance assurance, Bodine will be the president's second pick for the agency.

Trump has lagged in finding nominees for the agency's top positions. Cynthia Giles, Bodine's would-be predecessor as EPA enforcement chief, was already confirmed at this point during the Obama administration.

Until Bodine's nomination was announced Friday, EPA Administrator Scott Pruitt was the only Trump nominee announced for the agency. He was confirmed in February after a lengthy battle in the Senate.

Bodine might have better luck in her confirmation process, considering her service on EPW should make her a familiar face for senators who will vote on her confirmation. Her nomination, however, will serve as an opportunity for Democrats to question EPA's actions under the Trump administration.

One issue Bodine will likely be questioned on is her vision for the enforcement office at EPA under Trump. There has been speculation that the agency will shutter the office and delegate its authority to various programs instead (*E&E Daily*, Feb. 9).

In addition, the enforcement office is slated for deep budget cuts along with the rest of the agency under Trump. To avoid overlap with state regulators, the president has proposed to slash $129 million in enforcement shop funds under his budget plan for the next fiscal year.

Segal said Bodine is a good choice by Trump, especially if EPA has changes in store for the Office of Enforcement and Compliance Assurance.

"Susan is a great pick, particularly if the administration is contemplating any changes in the priorities at OECA," Segal said.

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Trump Taps Bodine, An Experienced

Hand, To Lead EPA Enforcement Office

Inside EPA

By: Anthony Lacey

Published: May 14, 2017

President Donald Trump announced late May 12 his intent to nominate former EPA waste chief Susan Bodine to lead the agency's enforcement office, tapping a Washington policy expert to provide key experience to Administrator Scott Pruitt's team and help advance several of Pruitt's priorities, including speeding Superfund cleanups and possibly returning some enforcement roles to agency program offices.

Bodine served as EPA waste chief under President George W. Bush and since January 2015 has been the chief counsel on the Senate Environment & Public Works Committee. Among Bodine's 29 years of environment law experience is her prior post at EPA, working at two law firms, and being the staff director and counsel for the House Transportation & Infrastructure Committee's water panel.

Her lengthy experience appears likely to be key, given Pruitt and his team's relative lack of EPA and Washington experience and some of the struggles they have faced advancing their agenda.

In a May 13 statement, Sen. John Barrasso (R-WY), the environment committee chairman, praised Bodine and said that she would give the EPA "strong and experienced leadership."

Vowing to hold a hearing on her nomination, Barrasso said that Bodine has extensive experience working both on Capitol Hill and previously in leadership at the EPA. "Susan is committed to finding commonsense ways to protect America's land, air, and water. In this new role, I know that she will work to help communities and small businesses comply with the law, while holding polluters accountable," he said.

Bodine has long been expected to win a significant role in the agency, though many believed she was in line to be selected as the agency's deputy administrator, a post that top White House

officials have battled over and remains unfilled.

But her selection as assistant administrator for the agency's Office of Enforcement & Compliance Assurance (OECA), even before a deputy administrator is announced, suggests she will bolster Pruitt's priority of addressing Superfund cleanups.

Cleanups Priority

In a May 9 memo to the agency's Office of Land and Emergency Response chief and regional administrators, Pruitt said he is seeking to revitalize cleanup sites while promoting accountability and consistency across regions, according to the memo.

Superfund and the agency's land and water cleanup work "will be restored to their rightful place at the center of the agency's core mission," he said.

But how the agency will be able to do that given administration plans to slash Superfund spending remains in serious doubt.

For instance, the administration's budget plan for fiscal year 2018 seeks to cut EPA's budget by 31 percent -- reducing its funding from roughly $8.1 billion to $5.7 billion -- would lower the Superfund cleanup program's budget by 30 percent, which could complicate Pruitt's efforts to refocus the agency on prioritizing such cleanups.

That has already prompted concern from state regulators who say it would harm federal waste programs and "severely impact" environmental and public health protections and local economies, in some cases straining state programs so greatly that they risk returning delegated programs back to EPA.

If the Senate confirms Bodine, she will have to grapple with how to reconcile Pruitt's vowed push to address Superfund cleanups with the budget cuts for waste and enforcement spending.

In addition, the role of OECA remains unclear given reports that Pruitt is "seriously considering" shuttering the office and returning its functions to the program offices.

In addition, sources have said the budget cuts for EPA enforcement spending on delegated programs risk a race to the bottom on environmental compliance that could hamper state as well as federal enforcement and create competitive disadvantage for companies that comply with environmental law.

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Regulatory reform bills get committee vote

Greenwire

By: Arianna Skibell

Published: May 15, 2017

The Senate Homeland Security and Governmental Affairs Committee will vote on four contentious bills this week that would change the federal rulemaking process.

The panel will mark up the "Regulatory Accountability Act," "Regulations From the Executive in Need of Scrutiny (REINS) Act," the "Midnight Rules Relief Act" and the "Small Business Regulatory Flexibility Improvements Act," along with a handful of other bills.

The "RAA," S. 951, which Sens. Heidi Heitkamp (D-N.D.) and Rob Portman (R-Ohio) introduced this month, would amend the 70-year-old Administrative Procedure Act to require more scrutiny of major and high-impact rules.

It would task agencies with computing the costs and benefits of new rules and then choosing the

most cost-effective option. The measure would also mandate automatic reviews of major regulations, allow hearings on the most significant federal actions and require more advance notice of potential rules.

The U.S. Chamber of Commerce has been a strong supporter of the measure, while watchdog and environmentalist groups worry its consequences could gum up the rulemaking process altogether.

The "REINS Act," S. 21, seeks to restore authority to Congress by allowing the body to have final say on regulations with an estimated economic impact of more than $100 million.

Under the proposal, which passed the House in January, both the House and the Senate would hold an up-or-down vote before the rule could take effect.

Opponents of the measure say it's too similar to a legislative veto, which was used between 1930 and 1980 but outlawed in 1983. The Supreme Court determined it was invalid because it violated procedural requirements in the Constitution that both chambers of Congress and the president approve laws.

Chairman Ron Johnson's (R-Wis.) "Midnight Rules Relief Act," S. 34, would allow lawmakers to kill rules as a bundle. The amended version of the measure passed the House in January.

Had Johnson's legislation passed before the window closed to fast-track resolutions of disapproval under the Congressional Review Act, Congress could have axed hundreds of Obama-era actions (*E&E Daily*, May 12).

Supporters say S. 34 would have allowed Congress to do away with hastily and poorly reviewed Obama rules. Environmentalists and public health groups oppose the measure.

The "Small Business Regulatory Flexibility Improvements Act," S. 584, by Sen. James Lankford

(R-Okla.), chairman of the Subcommittee on Regulatory Affairs and Federal Management, aims to close loopholes that conservatives say agencies use to avoid compliance with the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act.

Congress enacted the RFA in 1980, and it serves as the primary way for small businesses to influence rulemaking and ensure their voices are heard.

The statute requires agencies hold small-business review panels to assess the potential impacts of rules. It also mandates agencies identify alternative regulatory approaches for small businesses.

Many Republicans, however, say agencies don't regularly comply with the law. There have been multiple attempts over the years to amend it.

Other bills scheduled for markup include:

- S. 579, by Lankford, which would direct agencies to publish an advanced notice of a proposed rulemaking no later than 90 days before publishing a notice of proposed rulemaking.
- S. 696, by Sen. Deb Fischer (R-Neb.), would curtail federal bonuses.
- S. 760, by Sen. Brian Schatz (D-Hawaii), would expand the government's use of data to allow for greater transparency, effectiveness and innovation.
- A measure to streamline government purchases and travel cards to save federal dollars.

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House GOP Leaders Pondering Options for More Rule Rollbacks

Bloomberg BNA

By: Jonathan Nicholson

Published: May 15, 2017

House Republican leaders are considering using the Congressional Review Act of 1996 to target more regulatory rules issued during the Obama administration, but it is unclear whether they will proceed.

While most observers see the limited time window for Congress to overturn Obama-era regulations as having closed, AshLee Strong, press secretary for House Speaker Paul Ryan (R-Wis.), said May 12 more rules may be eligible, depending on whether Congress had been given sufficient notice of them.

"The window for Congress to review rules the Obama administration submitted has closed. We are now looking at our options to review Obama-era rules that were never submitted to Congress," she said.

On a Wisconsin radio show May 12, Ryan said the House had passed 13 repeals of various regulations under the law so far and another two were on their way to the Senate.

"We're deep into that agenda. We knew we needed to do that first because there was sort of a time limit on it. Then we went to work on our health-care legislation," he said on NewsTalk 1310 WIBA.

Test the Rules?

Ryan had hinted previously he thought additional rules could be challenged under the law, which allows Congress to overturn regulations issued late in an outgoing administration's tenure.

"We are out of the CRA window now, but there's an argument that can be made about the CRA window. It's a debate we're having, which we're going to be testing, I think," Ryan told radio show host Hugh Hewitt May 3.

"The question is, are there some that are outside our time limit window that we could test the rules? We're going to be doing that," Ryan said. However, he said the issue was less urgent with Donald Trump in the White House.

"It's an administration you agree with and you agree with their regulations, so I do believe these things are going to taper off," he said. "These are now regulations coming out of a conservative administration that are putting good, pro-business regulations out that will help create jobs and bring certainty to the business community."

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Two experts resign from EPA posts to protest the agency's science committee shake-up

The Washington Post

By: Chris Mooney

Published: May 12, 2017

In an expanding controversy over the role of science in the Trump administration, two expert advisers to the Environmental Protection Agency resigned Friday in protest at the dismissal of half of the members of a key science committee.

Carlos Martín, an engineer with the Urban Institute, and Peter Meyer, an economist with the E.P. Systems Group, an environmental and economic research firm, posted a joint resignation letter on Twitter, saying they were standing down to protest the agency's decision to remove the scientists.

"We cannot in good conscience be complicit in our co-chairs' removal, or in the watering down of credible science, engineering, and methodological rigor that is at the heart of that decision," they wrote.

Martín and Meyer had advised the EPA science's branch on research related to environmental contaminants and spills, the disposal of waste, and techniques for environmental cleanups.

The Trump administration has proposed to cut the budget of that branch, called the Office of Research and Development, by $233 million in 2018.

In their letter, Martín and Meyer cited in particular the failure to renew the terms of Courtney Flint, a sociologist at Utah State University, and Robert Richardson, an environmental economist at Michigan State University. Those researchers had served on the EPA's 18-member Board of Scientific Counselors, and had co-chaired a subcommittee on "sustainable and healthy communities" whose membership included Martín and Meyer.

Martín and Meyer called the loss of their group's leadership "a shock from which we cannot easily recover nor which we readily accept."

"This current context suggests there is going to be an unfair amount of manipulation," Martín, an engineer and architect who conducts social science research on built environments at the Urban Institute, said in an interview. "From the chairs themselves, to the proposed budget, to the general discussion around the fact that there might be different views put on these subcommittees and boards that aren't scientifically rigorous."

Martín was referring to scientists' concerns that the EPA's federal advisory committees under Trump will shift away from academic scientists and toward industry.

Last week, the agency decided not to renew the three year terms of half of the Board of Scientific Counselors, although the dismissed researchers said they had had previous assurances from EPA staff that they would be staying on. EPA spokesman J.P. Freire countered at the time that "no one has been fired or terminated" and that the scientists could reapply for the posts.

Members of EPA advisory committees tend to be outside academics or other types of specialists who play a part-time role.

In a statement, a spokesman for the EPA said: "EPA's Board of Scientific Counselors serve three-year terms and are reviewed every three years. Because advisory panels like BOSC play a critical role reviewing the agency's work, EPA will consider the hundreds of nominations through a competitive nomination process. Individuals who have previously served one term can, of course, apply through the competitive process."

Meyer suggested that process could be disruptive. "Having to start over again with brand new leadership, and leadership that, given the way our leadership has been removed, I'm not going to trust particularly, that creates a fairly substantial problem," said Meyer in an interview.

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China suspends new coal-fired power plants in 29 provinces: report

Reuters

By: David Stanway

Published: May 12, 2017

China will suspend approvals for new coal-fired power plants in 29 provinces to reduce overcapacity in the sector, the official China Securities Journal reported on Friday.

The National Energy Administration (NEA) has put as many as 25 provinces on "red alert", meaning that new projects would create severe overcapacity or environmental risks, while another four regions were put on "orange alert," the newspaper said citing a NEA statement this week.

The NEA said that utilization rates at coal-fired power plants were falling as a result of slowing growth in power consumption, and it established the warning system to identify regions that need to curb overcapacity.

Overcapacity has eaten into the margins of major coal-fired power producers, especially as regions come under pressure to meet state requirements to raise the share of renewable energy sources.

China's government said in a work report in March that it would aim to close down, cancel or slow the construction of more than 50 gigawatts (GW) of thermal power capacity this year to tackle the problem.

According to NEA data, average utilization rates at China's predominantly coal-fired thermal power plants fell 4.6 percent to 4,165 hours last year. However, total thermal capacity, also including oil and gas-fired plants, still rose 5.3 percent to 1,054 GW over the period. [O/CNPOWER]

The China Electricity Council, an industry lobby group, said last month that utilization rates had dipped further in some regions in the first quarter of 2017, especially in the northeast and northwest, putting margins at power plants under further pressure.

The NEA's new warning system also takes into account the resources and pollution levels of each region, with some coal-dependent provinces facing extreme water shortages or pressure to control smog, including the capital Beijing and the surrounding province of Hebei.

Of China's 32 provinces and regions, only Tibet was not subject to a capacity warning while two were given "green" status.

The newspaper said China's total coal-fired power generation capacity was likely to reach 1,300 GW by the end of 2020, much higher than the 1,100 GW target in China's 2016-2020 five-year

plan. Total coal-fired capacity stood at 940 GW at the end of 2016.

Environmental group Greenpeace warned last year that China was building another 200 GW of new coal-fired capacity despite the slowdown in demand growth and a pledge to raise the share of non-fossil fuels in the country's total energy mix.

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"Guardian Angel" adopts deaf dog for nonverbal boy – and changes both their lives forever

ABC 11 – WTVD

By: Jill Robbins

Published: May 15, 2017

It's easy to find the ugly in this world, but here is a story of kindness and karma to remind you of all the beauty and goodness in the world.

Brandi Guillet is a mom through adoption, like me. She and her husband were ready to start a

family, but several failed attempts at IVF brought them to adoption. They were set to adopt a baby girl, but the adoption fell through late in the process.

The baby girl's name was Ellie. (Remember that name.) To say that it's disappointing when an adoption falls through is a huge understatement, but Brandi believed fate had something and someone else in mind.

Enter Connor. Born addicted to opioid painkillers and abandoned by his birth mother, Connor spent a month in the NICU awaiting adoption. "I didn't care that he was born addicted," said Brandi. "We wanted a family. He needed a family." And a family they became.

Today, Connor's life is much the same as any other soon-to-be 7-year-old boy. He likes to run through the sprinklers and play on the swings at the playground, however, Connor doesn't speak and understanding his wants and needs can be challenging.

In addition to opioid exposure in utero, Connor has 22q Deletion syndrome, sometimes referred to as DiGeorge syndrome. Connor also has polymicrogyria, a condition distinguished by abnormal brain development before birth. He is a smart and loving little boy, but his verbal skills are very limited, so he uses a combination of American Sign Language (ASL) and "Connor Sign Language to communicate.

Brandi decided Connor needed a friend. The Guillet family already had a dog named Chowda, but at 8+ years old (56 in dog years), the family pet was showing signs of slowing down. Brandi started to explore the idea of getting a more active dog, better suited as companion of a lively young boy.

The family checked out a local boxer rescue and learned there were several deaf dogs that needed homes. Initially, Brandi wasn't sold on the idea of a deaf dog, until she heard the words that would change Connor's life: "Some deaf dogs respond to American Sign Language."

Wait a second. Connor uses simple signs.

Brandi explained Connor's condition to the representative at the boxer rescue center, and together, they decided a particular female dog would be the perfect canine friend for this special little boy. And wait for it ... the dog's name is Ellie.

Connor and Ellie took an instant liking to each other. When he shakes his finger at Ellie, she stops whatever she's doing. When he motions "come here," she goes to him. Connor and Ellie quickly became inseparable.

"They seem to understand each other's boundaries," says Brandi. "If she's sleeping, he taps her lightly at first so she doesn't freak out. He knows how to make certain accommodations for her and that's intuitive."

Brandi shared a picture online of Connor and Ellie snuggled up together. The photo was picked up by the popular Facebook page, Love What Matters, and quickly went viral. This happy and hopeful story of a sweet boy and his beloved dog is touching hearts all over the world.

But peel back another layer and this story becomes even *more* amazing.

Ellie was a foster dog, which means her stay in the Guillet household would only be temporary. Although Brandi knew that Ellie was "home," there was still the issue of how the family would afford the pet adoption fees.

The dreaded call came from the boxer rescue center; Ellie had been chosen for adoption. Brandi's heart sank at the thought of telling Connor he would have to say goodbye to his beloved dog. But then the magic words came: "You have a guardian angel in New Jersey."

That's right! A random person who had heard about Connor and Ellie on a morning radio show took care of the adoption fees. This guardian angel's random act of kindness made it possible for Ellie to be Connor's forever companion! No, you're crying.

The guardian angel turned out to be a woman named Tina, whose own dog, Petey, was suffering

from congestive heart failure. She was moved by the Guillet's story and expressed admiration for Brandi.

"Brandi is MY hero," explained Tina. "It takes a strong person to handle the accommodations Connor and Ellie both need every day ... a child or pet with special needs is expensive ... it was clear that dog was right where it needed to be." Okay, maybe I'm crying, too.

And it gets better.

Brandi learned Tina lives 15 minutes from her own home in Roseland, New Jersey. Through the miracle of Facebook, they connected.

There were tears and thank yous. Brandi told Tina, "Something good is going to happen to you." And she was right. The next week, Petey's health took a turn for the better. We love it when good things happen to good people!

"My nonverbal son has a best friend he can talk to and who understands him," says Brandi. She also goes on to say "I wish more families would open their hearts to deaf animals. Communication with them is a little different, but they are amazing companions. I also feel like deaf dogs would be good sidekicks for adults or kids who sign."

You can point to karma, kismet, fate, destiny, and maybe how the stars lined up for Connor and Ellie to be together. Some souls are just meant to meet and touch each other's life.

There are good people in the world who are motivated, called, and inspired to touch the lives of others in a positive way to make things happen. To make things better. And for the Guillet family, this case of puppy love is the beginning of a beautiful friendship.

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From: Johnson, Yvonne W
Sent: Tue 8/1/2017 3:33:21 PM
Subject: News Clips – August 1, 2017

News Clips – August 1, 2017

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EPA ordered to enforce Obama-era methane pollution rule

CNN

By: Rene Marsh

Published: August 1, 2017

*(CNN)*The EPA must enforce Obama era pollution limits for the oil and gas industry, a federal court said Monday.

Nine of the 11 judges of the United States Court of Appeals for the District of Columbia Circuit issued the latest ruling after a ruling by the court in July that the EPA unlawfully tried to delay implementing the Obama-era methane pollution rule.

The rule sets limits for greenhouse emissions for the energy industry, and requires companies to identify and fix leaks. In June, EPA Administrator Scott Pruitt sought a two-year pause on the new methane rule so the agency could "look broadly" at regulations and review their impact.

The D.C. federal court's ruling was a victory for environmentalists and suggests rolling back environmental regulations wholesale will be difficult for the Trump administration.

"Today's issuance of the mandate by the full D.C. Circuit protects families and communities across America under clean air safeguards that EPA Administrator Scott Pruitt sought to unlawfully tear down," said Peter Zalzal, lead attorney for the Environmental Defense Fund, one of the groups that challenged the EPA.

CNN reached out to the EPA for comment but had not received a response by late Monday.

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Divided D.C. Circuit Issues Mandate To EPA For Reinstating Methane NSPS

Inside EPA

By: Anthony Lacey

Published: July 31, 2017

A majority of the full U.S. Court of Appeals for the District of Columbia Circuit has granted a request from some states and environmentalists to issue its mandate vacating the agency's 90-day pause of key requirements in its methane rule for new oil and gas sources, putting the rule back into effect -- though two judges opposed the decision.

In an order issued late July 31, the court *en banc* directed its clerk to issue the mandate from a three-judge panel's ruling earlier this month that scrapped the Trump EPA's stay of the rule. Circuit Judges Janice Rogers Brown and Brett Kavanaugh objected to issuing the mandate, according to the order.

The decision is a victory for supporters of the Obama EPA's first-time rule limiting emissions of the greenhouse gas methane from new oil and gas drilling, and reinstates various deadlines for complying with several provisions of the rule, including requirements for companies to submit leak detection surveys.

Environmentalists and several states earlier July 31 filed motions with the court urging it to issue the mandate, which is the formal step of implementing the three-judge panel's ruling from July 3 that vacated a Trump EPA rulemaking that had stayed the new source performance standards (NSPS) rule. The court in its prior ruling said that the stay violated the Clean Air Act by improperly using section 307(d)(7)(B) to delay the rule.

The three-judge panel consisted of Circuit Judges David Tatel, Robert Wilkins and Brown, with the first two judges ruling at the time to immediately issued a mandate that EPA lift the stay.

Brown dissented, arguing the court lacked authority to review the stay because it was linked with the Trump EPA's reconsideration of the NSPS and thus was not a final action subject to judicial review.

EPA subsequently asked the panel to recall its mandate, arguing that the agency should be afforded the standard time to evaluate options for appeal before the mandate is issued. Federal agencies are allowed 45 days to petition for panel rehearing, rehearing *en banc* or for writ of *certiorari* at the Supreme Court, and EPA argued that the court typically does not issue its mandate until one week after that deadline passes. The agency's request also said the immediate mandate placed the oil and gas industry at risk of noncompliance.

The court temporarily recalled the mandate, and several industry groups and some states then filed petitions for rehearing of the three-judge panel by the full D.C. Circuit, although EPA did not file such a request.

Environmentalists and other states then filed their July 31 motions claiming that the *en banc* rehearing requests were an unfair attempt to further delay implementation of the NSPS, asking the court to instead issue the recalled mandate.

The court's July 31 order issuing the mandate also says that responses to the petitions for rehearing of the decision by the full court should be filed no later than 4 p.m. on Aug. 2, with replies to those responses due no later than 4 p.m. on Aug. 3.

The order was reviewed by the full D.C. Circuit consisting of Chief Judge Merrick Garland and Circuit Judges Karen LeCraft Henderson, Judith Rogers, Tatel, Brown, Thomas Griffith, Kavanaugh, Sri Srinivasan, Patricia Millett, Cornelia Pillard and Wilkins. The order notes that only Brown and Kavanaugh “would not issue the mandate forthwith.”

Although the court's July 3 ruling vacated EPA's stay of the NSPS, the agency is also pursuing rulemakings to codify pausing the regulation for up to two years. Observers say EPA likely will not be in a position to finalize those proposals until the end of August at the earliest. The deadline to file comments on the measures is Aug. 9.

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Court orders EPA to enforce methane standards

Energywire

By: Ellen M. Gilmer

Published: August 1, 2017

The Trump administration must enforce Obama-era restrictions on greenhouse gas emissions from the oil and gas industry — at least for now.

The U.S. Court of Appeals for the District of Columbia Circuit last night issued a mandate striking down U.S. EPA's attempt to pause methane restrictions for the sector. The agency's 90-day stay of key provisions of New Source Performance Standards is now formally vacated, and the rule is in effect.

According to the D.C. Circuit, EPA exceeded its authority when it paused the rule to consider industry concerns (*Greenwire*, July 3). The three-judge panel reached that conclusion in early July but had given EPA extra time to weigh its legal options before enforcing the regulation — which the Trump administration ultimately plans to reconsider through a public process.

States and industry intervenors that oppose the Obama administration rule last week asked all the court's active judges to rethink the decision. To the surprise of many court watchers, EPA has not made its own request.

Nine of the court's 11 active judges last night decided to issue the panel's mandate and unfreeze the methane rule. But the court is still weighing intervenors' request for rehearing and asked environmental groups and a coalition of states to file a response by tomorrow afternoon. The order notes that Judges Janice Rogers Brown and Brett Kavanaugh, both George W. Bush appointees, would not have issued the mandate.

The legal back-and-forth means continued uncertainty for the oil and gas industry, which for months has aggressively lobbied EPA Administrator Scott Pruitt to scrap the standards, which are designed to reduce methane leaks from wells and other infrastructure. The American Petroleum Institute and other critics have argued that Obama's EPA ignored voluntary efforts oil and gas operators were taking to slash emissions.

"API continues to support an extension of the compliance deadlines, as a stay or extension is appropriate to allow EPA time to review and, as necessary, revise the 2016 EPA final rulemaking," Howard Feldman, API's senior director for regulatory and scientific affairs, said in a statement last night.

Feldman added that EPA's separate, ongoing consideration of a two-year stay of the methane standards will avoid "subject[ing] businesses to on-again, off-again, requirements until EPA can reconsider the rule."

Environmental groups, meanwhile, celebrated the news as a win for climate and clean air protections.

"Today's issuance of the mandate by the full D.C. Circuit protects families and communities across America under clean air safeguards that EPA Administrator Scott Pruitt sought to unlawfully tear down," Environmental Defense Fund attorney Peter Zalzal said in a statement.

EPA did not respond to a request for comment.

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Industry to EPA: We want rule 'fixed, not just gone'

Climatewire

By: Zack Colman

Published: August 1, 2017

Industry has delivered a clear message to the Trump administration during a series of recent closed-door meetings: Don't completely gut the Obama-era Clean Power Plan.

To be sure, leading industry associations are pushing White House and U.S. EPA officials to drastically roll back the landmark climate change rule. They're advocating a new approach that still limits power plants' emissions but is narrower than the one envisioned by President Obama's team.

The heavy-hitting U.S. Chamber of Commerce and the National Association of Manufacturers advocated an "inside-the-fence" approach to power plant regulations during a July meeting with the Office of Management and Budget and EPA staff, they told E&E News. Critics of the Obama rule have argued that it overstepped by allowing emissions reductions "outside the fence line" of coal-fired power plants.

"We were trying to also lay the foundation for what we think would be an acceptable replacement rule because we want to see this rule fixed, not just gone forever," Ross Eisenberg, vice president of energy and natural resources policy with NAM, said in an interview.

Matt Letourneau, spokesman for the Chamber's Institute for 21st Century Energy, said in an email: "It's safe to say we" pushed for inside-the-fence-line.

In rescinding the rule, EPA chief Scott Pruitt plans to argue that the Obama administration went

too far in setting carbon reduction goals by looking at what the broader power system could achieve instead of focusing solely on improvements at coal plants, an administration official told E&E News in June (*Climatewire*, June 12).

The recently publicized meetings with industry hint of a nearing Trump administration decision on how and whether to regulate carbon emissions from power plants, though devising a formal rule could take several months. While OMB and EPA meet with a variety of interest and business groups affected by pending regulations, the Chamber and NAM carry considerable weight in the business community that President Trump has courted.

The Trump administration is facing pressure from conservatives to trash EPA's endangerment finding, which gives the agency the authority to regulate greenhouse gas emissions. If the Trump administration adopts an inside-the-fence approach, it would mean those angling to challenge the endangerment finding have lost a key battle.

The meetings came after recent reports that EPA was planning to pursue a legal strategy known as the "112 exclusion," which argued the agency couldn't regulate power plants under Section 111(d) of the Clean Air Act — as the Clean Power Plan proposed — because they were already hit with limits for mercury and air toxins under Section 112.

Those pushing for a full Clean Power Plan repeal have acknowledged that a twin effort to scrub the endangerment finding may be necessary to ward off lawsuits that EPA wasn't doing enough to address emissions. A move to develop any carbon rules for power plants, however, would amount to an implicit admission that greenhouse gas emissions deserve curbing.

"If they had already decided that's what they wanted to do, then there would be no reason to develop this inside-the-fence-line approach," Jeff Holmstead, a partner at Bracewell LLP and former EPA air chief under President George W. Bush, said in an interview.

The White House referred E&E News to EPA, which did not return a request for comment.

'Skepticism' about axing endangerment finding

EPA officials under Obama argued the electricity system required regulation as an interconnected entity, thereby achieving emissions reductions beyond power plants' physical parameters. Opponents, though, said that view was too expansive — some have argued regulations must apply to power plants themselves, while others maintain EPA lacks authority to regulate power plant carbon emissions because it already caps mercury emissions.

Utilities have pushed for the inside-the-fence-line approach rather than a full dismantling of the Clean Power Plan because they say it provides more certainty. They argue that something like requiring on-site efficiency improvements could prevent future presidents from pursuing ever-more aggressive rules. Detractors in the environmental community note, however, that emissions reductions under this scenario would be small.

The Edison Electric Institute, a trade group representing investor-owned utilities, declined to say what it advocated for in its July 26 meeting — for which White House energy adviser Mike Catanzaro was present — though it has in the past advocated for an inside-the-fence tactic.

An industry source who wasn't present for that meeting noted Catanzaro had expressed "skepticism" about the administration's ability to overturn the endangerment finding. The source said Catanzaro was concerned about getting into endless litigation, as the administration would need to compile anthologies of climate change science that refuted greenhouse gas emissions' effects on a warming planet — a heady if not impossible task.

That said, the industry source wasn't ready to take bets on where the administration would end up on the Clean Power Plan.

"There's wide agreement among the utility industry that inside-the-fence-line would make more sense," the source said. "But there's certainly other people pushing for a different approach, including people who have sway with this White House. I'd be very cautious saying anything definitive."

An inside-the-fence-line plan is "ultimately not enough in the long term" when it comes to

restricting regulation on energy, said Tom Pyle, president of the conservative Institute for Energy Research. Pyle said in an interview that he's "not surprised" the business community is lobbying for that approach, though.

"Obviously wherever as aggressively EPA could go is where I'd be comfortable with," said Pyle, who also ran Trump's Energy Department transition team, stating his desire to whack the endangerment finding.

Some haven't given up hope on the Section 112 exclusion and an ultimate challenging of the endangerment finding. Myron Ebell, director of the Competitive Enterprise Institute's Center for Energy and Environment, said in an email that the White House could ask for input on both the inside-the-fence-line approach and Section 112 exclusion in the public comment portion of the rulemaking process after rescinding the Clean Power Plan.

To environmental groups, a move to regulate inside the fence line would signal that the administration is taking policy cues from industry rather than the far right. Utilities and manufacturers, after all, were chief advocates of such a plan when the Obama administration rolled out its regulation, which sought a 32 percent reduction of power plant emissions below 2005 levels by 2030. That largely relied on shifts from coal-fired power to natural gas and renewable energy.

"An inside-the-fence-line approach with an argument in the alternative that industry lacks authority to regulate carbon emissions under Section 111 follows the industry talking points to a T," John Walke, senior attorney and clean air director with the Natural Resources Defense Council, said in an interview.

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Trump aides huddle with utility group leaders

Greenwire

By: Arianna Skibell

Published: July 31, 2017

The latest White House meeting to discuss pulling back on U.S. EPA's Clean Power Plan involved President Trump's energy honcho Mike Catanzaro and the electric utility industry.

Officials with EPA and the Office of Management and Budget, along with Catanzaro, met with representatives from the Edison Electric Institute on July 26, according to records posted online by OMB. The parley marks the latest of at least nine meetings on the White House plan to rescind the EPA regulation to curb carbon emissions of power plants.

Catanzaro, once employed by K Street shop CGCN Group, was one of 17 senior officials granted a waiver to work on issues he focused on as a lobbyist, including the Clean Power Plan (*Greenwire*, June 1).

Catanzaro's lobbying disclosure forms from the fourth quarter of 2016 reveal that he worked on methane regulations and offshore drilling regulation and promoted oil and gas development on public lands. While serving as a staffer under Sen. Jim Inhofe (R-Okla.) on the Environment and Public Works Committee, Catanzaro authored many articles for the conservative website Human Events, in which he strongly questioned the reality of climate change.

The EEI officials included Director of Climate Programs Eric Holdsworth, Director of Environment Quin Shea and Associate General Counsel Alex Bond, among others.

Trump signed an executive order in March directing EPA to review the Clean Power Plan, and EPA sent OMB official notice last month for a proposed rulemaking to roll back the climate regulation (*Greenwire*, June 9).

OMB typically holds meetings with interested parties before issuing a draft rule as part of its review process. EPA Administrator Scott Pruitt has cast doubt in the past as to whether his agency has the tools to regulate greenhouse gases, leaving it an open question whether he will replace the signature Obama climate rule.

Earlier this month, Trump administration officials held meetings with representatives of the American Lung Association, Georgetown Climate Center, U.S. Chamber of Commerce and Clean Air Task Force.

Georgetown Climate Center Executive Director Vicki Arroyo and Deputy Director Kathryn Zyla brought a letter for OMB Director Mick Mulvaney urging him to keep the Clean Power Plan intact.

The letter was signed by environmental officials from 12 states: California, Colorado, Connecticut, Delaware, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Virginia and Washington.

"Addressing climate change does not harm the economy — quite the opposite," officials wrote in the letter.

"We have seen that actions to reduce carbon emission also have economic benefits, and the Clean Power Plan reflects our collective experience."

In a July 13 meeting, Trump officials met with Dan Byers and Heath Knakmuhs. Byers is charged with leading the U.S. Chamber's Global Energy Institute's efforts to promote and maintain the use of coal in American energy production, while Knakmuhs focuses on the electric grid and transmission policy.

In June, government officials met with attorneys from the Environmental Defense Fund, Tomás Carbonell and Martha Roberts, who both work on climate and regulatory issues. The following day, officials met with Sierra Club attorneys Joanne Spalding and Alejandra Núñez, as well as Liz Perera, the green group's climate policy director (*Greenwire*, July 10).

Also in June, OMB officials met with representatives from the Natural Resources Defense Council and E2, a business group that pushes for clean energy (*Greenwire*, June 28).

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In Symbolic Move, California To Submit Final CPP Compliance Plan To EPA

Inside EPA

By: Lee Logan

Published: July 31, 2017

California has approved its state compliance plan for EPA's Clean Power Plan (CPP) greenhouse gas rule for existing power plants, a largely symbolic step though officials say it nonetheless shows other states that cutting power sector GHGs is achievable under the stayed rule that the Trump administration is expected to soon propose to repeal.

The move also is another form of push-back against Trump EPA efforts to target the CPP and other Obama-era climate rules, according to officials with the California Air Resources Board (CARB).

"This is a plan that the federal government doesn't really want to receive but we want to send it to them anyway," said CARB Chairwoman Mary Nichols during a July 27 board meeting. "We think the regulation it was developed under was a good regulation."

Although California's CPP compliance strategy was initially considered highly influential, the Supreme Court's February 2016 stay of the rule and the subsequent election of President Donald Trump has significantly hobbled implementation of the EPA regulation.

Attention now is keenly focused on whether the current administration's forthcoming plan to rescind the rule will ultimately survive legal scrutiny. Even if it does not, the rule's compliance deadlines might need to be postponed, and the CPP compliance targets likely will have been nearly achieved by market-driven shifts to lower-carbon power.

But CARB officials noted the prospect of major federal climate regulation from a future administration, arguing that submitting their CPP compliance strategy to EPA now could inspire other states to do the same.

The compliance plan's submission can show that "action on climate mitigation can benefit the states and make them well positioned to comply with future federal climate action," CARB Executive Officer Richard Corey said at the meeting.

The plan -- which is similar to state implementation plans to achieve national air quality standards under the Clean Air Act -- "explicitly demonstrates how a cap-and-trade system could be utilized for Clean Power Plan compliance purposes," Corey added.

State Programs

California's plan relies on the CPP's provisions allowing states to use "state measures" to achieve the rule's targets. In the Golden State's case, that means it largely relies on its economy-wide cap-and-trade system to show that the power sector's GHGs will be reduced to the federal targets, according to a CARB staff summary.

However, state officials project that actual emissions will fall below the CPP targets, in part due to the state's aggressive climate policies. All of the rule's targets are "well above" power plant emissions today and "will remain well above them" in the foreseeable future, one CARB staffer said at the meeting.

Nevertheless, EPA required California to include a "backstop" provision in its CPP plan in the event that the state policies did not meet the rule's targets. That backstop would take the form of an additional trading-based program focused only on the power sector. The staffer described the backstop as "extremely unlikely" to be triggered.

The staffer said that litigation over the rule -- which is on hold while EPA determines how to proceed on a new regulation to scrap the CPP -- "should not deter California from being compliance ready."

Further, the final plan shows that "compliance with the CPP is appropriate and doable."

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Did Trump just get a win on coal?

Climatewire

By: Benjamin Storrow and Dylan Brown

Published: August 1, 2017

A deal to provide 700,000 tons of coal to Ukraine's state-owned utility provides a much-needed boost to northern Appalachia's ailing mining companies. It also helps President Trump fulfill a top campaign promise.

The agreement between Xcoal Energy & Resources LLC, a Pennsylvania-based marketing firm, and Centrenergo PJSC follows years of falling domestic demand and represents one of the Trump administration's most consequential forays into the coal market to date, industry analysts said.

While Trump has made headlines for rolling back a host of Obama-era climate regulations, those moves have done little to alter the long-term trajectory of an industry devastated by low natural gas prices and mounting competition from renewables. The Ukrainian deal, by contrast, ensures a new customer for coal companies at a time when buyers are increasingly scarce.

"It would be one of the first direct impacts they have had," said Joe Aldina, an analyst who tracks the coal industry at S&P Global's PIRA Energy Group.

To be sure, 700,000 tons is a relatively small figure in the context of the U.S. coal market, where American miners last year produced in excess of 700 million tons. Production in northern Appalachia, where much of the coal for the deal is likely to be mined, was nearly 42 million tons last year. And the Ukrainian market for thermal coal used in electricity generation represents a drop in the bucket compared to the millions of tons lost to domestic coal plant closures, analysts said.

But, coming against the backdrop of annual production declines, the agreement represents something of a lifeline for northern Appalachian miners, who have witnessed output fall from 54.7 million tons in 2010 to almost 42 million tons last year. Those declines have largely coincided with natural gas's rise in the PJM Interconnection, a regional transmission organization serving 65 million people across the eastern United States.

In 2005, according to PJM, coal accounted for more than 90 percent of the organization's generation capacity. Last year, natural gas and coal each made up roughly a third of PJM's generation mix.

"When you throw in a new consumer, at 700,000 tons, that's a nice uptick, especially in this environment when we have consumers retiring," said Hans Daniels, CEO of Doyle Trading Consultants, a research firm. "This is not the equivalent of a big power plant, but it's a nice little extra."

He predicted that production in northern Appalachia would rise 48 million tons in 2017, helped in part by the Ukrainian deal.

The agreement is an outgrowth of Ukraine's conflict with Russia. American and Ukrainian officials first broached the prospects of a supply arrangement in 2014, when Ukrainian coal shipments were disrupted by fighting in the mining region of Donbass, according to U.S. officials with knowledge of the talks. Ukraine initially elected to fill the lost tons with shipments from South Africa.

But earlier this year, Kiev instituted a blockade on all trade with the country's separatist regions, prompting Ukrainian officials to again raise the issue of coal imports with their American

counterparts.

Officials from the Energy and Commerce departments responded by putting Ukrainian officials in direct contact with U.S. coal suppliers, arranging a five-day tour of Pennsylvania's coal mines in June.

"They were very critical in the introduction and helping tie things up through our trips to Kiev to finalize the deal," said Xcoal spokesman Ted O'Brien.

Administration officials trumpeted their involvement, saying it was part of Trump's larger pledge to revive the coal industry.

"This announcement will also boost our own economy by supporting jobs in the coal and transportation industries," Commerce Secretary Wilbur Ross said in a statement. "This Administration looks forward to making available even more of our abundant natural resources to allies and partners like Ukraine in the future to promote their own energy security through diversity of supply and source."

In Pennsylvania, the Ukrainians found a region uniquely suited to meet their needs. Ukraine's power plants burn anthracite coal, an energy-rich variety of the mineral that is less common today. While anthracite mining is now relatively limited in Pennsylvania, the state's mines still produce an energy-packed brand of coal that can be used as a substitute by Ukrainian plants, analysts said.

That helps explain the high price of $113 per ton that Xcoal will receive for its first shipments to Ukraine, they noted. Had the country's power plants been able to burn another variety of coal, they might have bought shipments from Europe, where prices are hovering around $80 a ton, or from other regions of the United States, where exports averaged almost $60 a ton in the first quarter of 2017.

It remains to be seen if the export market can provide a long-term boost for American coal miners. U.S. shipments abroad totaled 42.7 million tons over the first half of 2017, a 50 percent

increase compared to the first six months of 2016, according to the U.S. Energy Information Administration. Thermal exports used in power generation, which have doubled over the first half of the year, accounted for 42 percent of all U.S. coal exports.

Analysts attributed the rebound to an increase in international coal prices, which have made American shippers more competitive in the global market.

Yet the long-term trends remain daunting. American coal companies are better placed to compete in Europe than in Asia thanks to shorter shipping routes. The Netherlands was the largest market for U.S. thermal exports, with 6.1 million tons in 2016, followed by India (2.7 million tons) and Germany (1.8 million tons). Shipments to Ukraine were 32,211 tons.

"The problem is Europe is not a growing market," Daniels said.

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Ukraine Turns to Pennsylvania Coal Imports Amid East Blockade

Bloomberg BNA

By: Kateryna Choursina and Volodymyr Verbyany

Published: August 1, 2017

Ukraine, starved of supplies of a key type of coal from its easternmost regions amid a three-year conflict with Russian-backed separatists, secured shipments of the fuel from the U.S.

State-run utility Centerenergo said July 31 that it will import 700,000 tons of thermal coal, needed to run one of its three power stations, from Pennsylvania-based Xcoal Energy & Resources this year. The first batch of 210,000 tons will be sent in September and cost $113 a ton. Ukraine wants to expand the deal into next year.

"In today's turbulent world, geopolitical turmoil can create uncertainty for nations without access to an abundance of their own natural resources. No one knows this more than Ukraine," U.S. Energy Secretary Rick Perry and U.S. Commerce Secretary Wilbur Ross said in a statement.

The fuel deficit, which arose after President Petro Poroshenko banned trade with Ukraine's two rebel-controlled regions, is getting more urgent in the run-up to winter. While Poroshenko visited Donald Trump in Washington, sealing 2 million tons of additional coal supplies, the U.S. president has criticized Ukraine's dealings with Hillary Clinton during the election campaign. Trump has made reviving America's coal industry a central theme of his presidency.

"It's important to note that this agreement will support the ongoing operations of Pennsylvania-based coal mines, allowing for the expansion of mining activities," Xcoal's chief executive officer, Ernie Thrasher, said July 31.

In addition to agreements over coal, the U.S. has reaffirmed its support for Ukraine in the separatist conflict. U.S. Secretary of State Rex Tillerson visited in early July to reassure Ukrainian officials after Trump held his first face-to-face meeting with Russian leader Vladimir Putin. He also appointed a special representative to Ukraine, while Congress passed stricter sanctions against Russia.

Centrenergo serves Ukraine's capital, Kiev and the surrounding region. The government plans to sell a stake in it next year.

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Scientists ask Pruitt for sit-down on climate debates

E&E News

By: Arianna Skibell

Published: July 31, 2017

Leaders of top science organizations today requested a meeting with U.S. EPA Administrator Scott Pruitt to discuss his proposal for staging debates over human contributions to climate change.

In a letter to Pruitt, 16 scientists said the evaluation and review climate science undergoes are rigorous.

"The peer review process itself is a constant means of scientists putting forth research results, getting challenged, and revising them based on evidence," they wrote.

"Indeed, science is a multi-dimensional, competitive 'red team/blue team' process whereby scientists and scientific teams are constantly challenging one another's findings for robustness."

The letter was signed by former Rep. Rush Holt (D-N.J.) of the American Association for the Advancement of Science, Robert Gropp of the American Institute of Biological Sciences, Christine McEntee of the American Geophysical Union and Ellen Bergfeld of the American Society of Agronomy, among others.

Scientists have been seething since Pruitt suggested the formal initiative to challenge mainstream climate science with a "back-and-forth critique" by government-recruited experts (*Climatewire*, June 30).

The current understanding of climate change, the scientists wrote, is the result of decades of such work from scientists both in the United States and internationally.

"Given your interest in the state of climate science, we would welcome the opportunity to meet with you to better understand your perspective and rationale for the proposed activity; and to discuss climate science, including which areas are at the frontiers of scientific knowledge and which are well-established because of thousands of studies from multiple lines of evidence," they wrote.

How the debate comes together remains to be seen. Pruitt has suggested a televised debate between the two sides. He's reportedly looking to employ a former Obama administration official to lead the effort (*Greenwire*, June 24).

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Skeptical scientists are lukewarm on Trump

Climatewire

By: Robin Bravender

Published: August 1, 2017

Scientists who have been combating the prevailing views about climate change for years might find plenty to be giddy about with the new administration.

President Trump hired vocal climate skeptics to help shape his administration; top government officials are publicly questioning the role humans play in global warming and whether regulations are worth the costs; and the boss of U.S. EPA is eager to crack open the scientific debate that many called settled.

So it wouldn't be surprising if the scientists who diverge from mainstream views and have been marginalized in the debate were feeling vindicated these days.

Michael Mann, a climatologist at Pennsylvania State University who regularly spars with dissenters, said: "They would be happy, wouldn't they?"

They're not.

"There is nothing to celebrate about the Trump administration's approach to energy or climate, unless you are an ideologue on either side," said Roger Pielke Jr., a professor in the Environmental Studies Program at the University of Colorado, Boulder. "In that case, it's happy times for renewed political combat."

Pielke, who has advocated for a carbon tax to limit greenhouse gas emissions but questioned the links between those emissions and extreme weather events, said in testimony to Congress earlier this year that he had experienced an "organized effort of delegitimization" by congressional Democrats and the Obama administration.

But Pielke told E&E News in an email that he isn't any happier with the Trump administration when it comes to climate. "I have had no interactions with anyone related to the Trump Administration (and generally find their policies, climate and otherwise to be awful)," he wrote.

Others feel a sense of uncertainty.

"I'm not feeling good yet," said Judith Curry, a climatologist and former professor at the Georgia Tech.

She and some other prominent scientists who have been publicly critical of the dominant theories of climate science say they see promising signs in the Trump administration's early moves. But some question whether it's something the administration will take on in earnest, and they warn that government officials risk veering from skepticism into outright denialism.

Trump is 'ignoring' warming

They're waiting to see how the administration handles hot-button issues like EPA's endangerment finding and whether officials follow through on assembling a so-called red team aimed at poking holes in the climate science consensus.

"I'm cautiously optimistic," Curry said. "I don't have a problem with what he has said" since becoming president, she added. "He basically says the causes of climate change are uncertain. And he isn't letting climate change drive energy policy."

Pat Michaels, a senior fellow in environmental studies at the Cato Institute, said he's "cautiously hoping" that the administration will adopt a "nuanced point of view on climate."

That would sound something like this: "Climate change is real," Michaels said, but "it doesn't look like it's going to be the end of the world, and there's not much you can do about it anyway." He called that approach a "lukewarm" point of view.

That view is a departure from the Obama administration, Michaels said. "If they do that, they won't be labeled deniers, and there is a growing body of scientific literature and a growing data stream that argues that that is a reasonably credible point of view," he said.

But Michaels hasn't yet been sold on where the new team stands. "I would view the administration's attitude on climate change or global warming, which it more specifically should be called, as kind of ignoring it."

Trump himself rarely talks about climate change, and in the wake of his decision to extract the United States from the Paris climate accord, his aides refused to say where Trump stood in regard to the science. He stated politics, not science, as his primary reason for the withdrawal, calling it a bad deal for the United States.

John Christy, a climate scientist at the University of Alabama in Huntsville who has long argued that the science isn't settled and climate change models show exaggerated warming, said it is "satisfying" to see his work "now being taken seriously by the folks who can do something about the legislative side."

But Christy is also unsure what exactly Trump and his team think about climate data.

"I don't know where President Trump lands regarding where the 'science' is," he said. "It's hard to figure out what's going on" with the administration, Christy added. "I can't get my hands around what direction it's going because the noise level is so high."

Be subtle, Mr. President

Richard Lindzen, an emeritus professor of meteorology at the Massachusetts Institute of Technology and a fellow at Cato, said there's "a feeling that especially with pulling out of Paris that there is more sanity" when it comes to climate science.

"I do think that the present administration has people who understand that this is a scientific issue that is by no means settled. That's a big plus," Lindzen said.

Those wishing for a major shake-up in climate science are watching closely.

Michaels earlier this month published a "climate roadmap" for Trump in which he urged Trump to obliterate the 2009 endangerment finding, the determination that set the stage for federal rules to limit greenhouse gas emissions. Michaels also wants Trump's team to pull out of a 1992 U.N. treaty that enables the country to enter into international emissions agreements.

If EPA doesn't change its official position regarding the science, Michaels said, "all that's being done is just waiting for the next president of the other party to reverse it."

Others in both the science and advocacy realms also want the new administration to torpedo the endangerment finding, but it's unclear whether EPA Administrator Scott Pruitt will take that on. Pruitt and other members of the administration have suggested kicking off a formal debate to test the prevailing climate science.

That review would be welcome for some skeptical scientists, although several cautioned that it has to be done carefully.

"I'm hopeful that something can shake loose and that we can start to have a rational dialogue on this subject," Curry said. She called for "taking a new look at the science" and "opening up the policy options." But, she added, "promoting policies to senselessly trash the environment isn't going to help either. I'm just not clear where this administration is going yet."

Michaels said the red team approach "has promise, but is also fraught with peril."

He said he hopes that the red team will "be the team of nuance and innovative policy, rather than the 'there's no such thing' [as climate change] team."

Michaels added that under Trump, "I think there is a real opportunity with regard to developing science, and I don't detect any willingness to wade into those waters."

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There's a 5% chance of holding temps at 2 C — study

Climatewire

By: Adam Aton

Published: August 1, 2017

President Trump's decision to yank the United States from the Paris climate agreement spurred a rallying cry from environmentalists committed to meeting the accord's goals anyway.

Too late, say the researchers behind a pair of studies published yesterday in *Nature Climate Change*.

Climate modeling and observational data suggest the world is already on track to reach dangerous levels of warming by the end of the century, according to the two papers.

There's only a 5 percent chance of limiting warming to less than 2 degrees Celsius, according to a forecast drawn from a statistical analysis of 150 countries' population and economic growth.

Two degrees of warming marks the likely threshold for widespread ecological problems, including coral reef collapse, markedly higher sea-level rise and crop failures, according to NASA.

The median forecast suggests 3.2 C of warming by 2100, with a likely range of between 2 and 4.9 C.

Even if all human emissions immediately ceased, the atmosphere probably contains enough carbon to push up temperatures by about 1.3 C by the end of the century, according to the second study.

And that might understate the effect of today's greenhouse gases.

The amount of warming caused by CO2 might have been masked over the years by accompanying aerosol emissions. So as emissions fall — and aerosols wash out of the air — we might find ourselves on track for even more warming than we realized, said Robert Pincus, a scientist with the University of Colorado, Boulder, and NOAA's Physical Sciences Division.

Pincus authored the analysis of committed warming, along with Thorsten Mauritsen of the Max Planck Institute for Meteorology.

The ocean's ability to absorb heat and carbon could reduce the warming already in the pipeline by 0.2 to 0.3 C, they wrote.

The findings are dire, but they should inspire action rather than hopelessness, said Adrian Raftery, a professor of statistics and sociology at the University of Washington and author of the study on temperature forecasts.

"The consequences of not [acting] are even higher with these results than they were before, when we could think about 1.5 degrees as being in the realm of possibility — which I think, realistically, it's not," he said, urging more investments in research, a tax on carbon and other established paths to emissions reductions.

Raftery's forecasts align with the middle-of-the-road scenarios put forward by the Intergovernmental Panel on Climate Change.

His study found population growth will likely play a small role in climate change, because the areas with the highest growth — like Africa — have a small carbon footprint.

Some uncertainty remains around how much Africa's emissions will grow over the coming century, he said, but relative to the United States, it's a question of whether Africa's per capita emissions will be "lower or much, much lower."

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Islamic State and Climate Change Seen as World's Greatest Threats, Poll Says

The New York Times

By: Lisa Friedman

Published: August 1, 2017

Climate change is essentially tied with the Islamic State as the most-feared security threat across much of the world — except in the United States, where cyberattacks are considered a greater danger than global warming, according to a Pew Research Center report released on Tuesday.

Residents of 13 countries ranked climate change as the greatest threat to national security, while in 17 countries the Islamic State was considered a more immediate problem.

In the United States, however, a gaping partisan divide pushed climate change to third-most severe perceived threat, after ISIS and cyberwarfare. Just 56 percent of Americans surveyed identified global warming as the most serious threat to the country, compared to 71 percent for cyberwarfare and 74 percent for Islamic State attacks.

The American intelligence community concluded that Russia used cyberweapons to interfere with the presidential election last year, perhaps accounting for the heightened sense of threat. The Trump administration has consistently played down the dangers of a warming climate and has withdrawn the United States from the Paris accord on climate change signed by nearly 200 nations.

"The stark partisan divide between those on the left and the right means there is a large portion in the United States that doesn't see climate change as a threat," Mr. Poushter said. "But there's a large percentage that does, so that lowers the number."

The survey of 41,953 people in 38 countries was conducted from February through May. Beyond the top line figures, the survey offers other insights about how people around the world view global warming.

Latin America is deeply worried about climate change

While Latin America is certainly vulnerable to the consequences of climate change, its countries rarely rank among the most at risk. That unfortunate distinction tends to go to Chad, Sudan, low-lying island states and other places where poverty and civil strife meet rising seas, floods and drought. So it's not surprising perhaps to see so many countries in Africa put climate change at the top of their worry list.

But 74 percent of people surveyed in seven South American and Latin America countries cite climate as their top global concern, the highest of any region surveyed.

The Intergovernmental Panel on Climate Change offers some clues, citing "significant trends in precipitation and temperature" across the region. Paula Caballero, global director of the climate change program at the World Resources Institute, a Washington-based think tank, noted the multiple devastating floods this spring in her native Colombia.

"In Latin America the impacts of climate change both in terms of extreme events as well as the intensity and frequency of events has really gained momentum," said Ms. Caballero, who formerly served as Colombia's lead United Nations negotiator on climate change

Even in Venezuela, the only Latin American country surveyed that did not name climate change as its top concern, global warming came in just below worries about the economy. In the midst of its own political and economic crisis this month, Venezuelan leaders ratified the Paris Agreement.

Russians are among the least concerned about warming

The Russian heat wave of 2010 was made three times more likely by climate change, a study later found. But Russians are generally apathetic about rising greenhouse gas emissions, the Pew survey confirmed. The country backed the Paris agreement on climate change but the Russian president, Vladimir V. Putin, did not denounce President Trump for abandoning the accord as so many other world leaders did.

Putin's views on the subject are opaque, though. Before the Paris accords he told world leaders

that global warming "was one of the gravest challenges humanity is facing."

Russia ranked climate change fifth among its global concerns in the Pew survey, below the Islamic State, the economy, the refugee crisis and the influence of the United States.

What do the Russians worry about even less than climate change? Cyberattacks.

American opinion on climate change is highly partisan

We have long known Americans break heavily along party lines over the causes, solutions and very existence of man-made climate change. The Pew study lays that chasm bare.

Among Americans who consider themselves left-leaning, 86 percent cite rising emissions as a dangerous threat, compared to only 31 percent on the right. That 55 percent divide is larger than the partisan split on ISIS and on the refugee crisis.

Terrorism is the biggest worry for Americans, with 74 percent putting ISIS as the top threat to the country. Close behind are cyberattacks.

Mr. Poushter noted the surveys were conducted in the spring amid national attention on the finding that Russia meddled in the 2016 presidential election by hacking Democrats' emails and distributing online propaganda.

Climate change is ranked third among Americans with 56 percent of people surveyed believing it is a major threat.

Lower levels of concern about climate change were found in Poland, Russia, India, Israel Jordan, Tunisia, Turkey, Ghana, Nigeria and Venezuela.

Anthony Leiserowitz, director of the Yale Program on Climate Change Communication at Yale University, said the ideological split in America underscores the divisions he has witnessed in his own studies of how Americans perceive climate change.

"Climate change is in many ways a small skirmish in the midst of a much larger political struggle that's been going on in this country since its founding," he said. "What's the relationship between government and a society of free individuals? That's playing out across the board on a lot of other issues from tax policy to health care."

Coal importers and exporters have divergent views

Pew did not survey many of the top oil exporters other than Russia, so it's hard to know how people feel in Saudi Arabia, United Arab Emirates or Kuwait. But among the world's biggest coal exporters the story is a fairly nuanced one.

Citizens of Indonesia, a top coal exporter in 2014 according to the World Coal Association, listed ISIS as their highest concern. Attacks in Jakarta this spring have set people on edge and the country's military chief has warned that the Islamic State group has so-called sleeper cells all over country. But climate is still seen as the third biggest threat, after the economy. Australia, also a coal exporting giant, cited climate change as the second greatest threat after ISIS.

And among the big coal importers? Only 47 percent of people in India surveyed named climate change as a top concern, but that was enough to put the issue second after ISIS. In South Korea, 79 percent of people are worried about the climate.

Mr. Poushter said Pew did not survey China this year because of a law restricting research by foreign organizations. But a similar survey Pew conducted in 2015 found 19 percent of Chinese people polled considered themselves "very concerned" about climate change. That is low, particularly compared to the 79 percent of Indians who were very concerned about warming at the time. But it also was the highest level of worry Chinese residents assigned to any global threat.

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Here's where climate change could generate toxic air pollution

PBS News Hour

By: Nsikan Akpan

Published: July 31, 2017

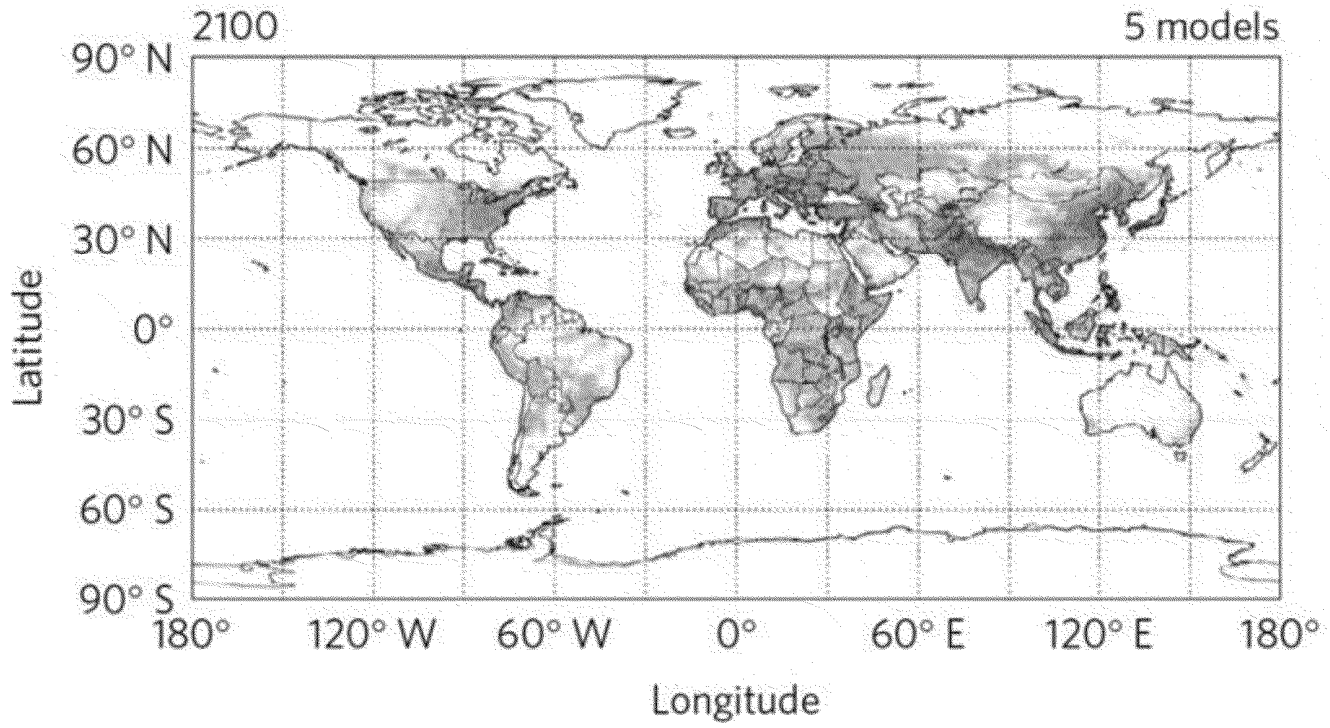
Climate change could choke parts of the planet. Global shifts in temperature and precipitation can create pockets of two air pollutants — ozone and fine particulate matter — around populated areas, according to a study published Monday in Nature Climate Change.

In a business-as-usual scenario, the consequence would be 60,000 extra deaths annually by 2030 and more than 250,000 deaths per year by 2100. The investigation offers a sense of what places could see the greatest benefit by curbing climate change.

What they studied

- The team focused on two air pollutants known to harm human health and increase mortality: ozone created near the ground and fine particulate matter.
- Then, they used an ensemble known as the Atmospheric Chemistry and Climate Model Intercomparison Project (ACCMIP) — which pulls data on temperature, precipitation and other measurements from institutes and government agencies around the world — to predict what business-as-usual trends in climate change would do to the premature death toll in 2030 and 2100.

What they found



Estimates for mortality due to fine particulate matter in 2100. Orange and red shading indicate areas where mortality will increase by thousands or tens of thousands, respectively. Light blue and dark blue show where mortality will decrease by thousands or tens of thousands, respectively. Map by Silva RA et al., Nature Climate Change, 2017

- A climate change-related boost in fine particulate matter would create an additional 55,600 deaths per year by 2030, and 215,000 by 2100 worldwide.
- Ozone, meanwhile, could add 3,340 deaths by 2030 and 43,600 deaths by 2100.

What's driving this pollution?

Ozone is not directly emitted by cars or power plants, but rather forms when human-made pollutants — like oxides of nitrogen (NOx) — react with other chemicals in the air.

"The rates of those reactions are faster with the hotter temperatures and the more sunlight," said J. Jason West, an environmental engineer the University of North Carolina at Chapel Hill who led the study. "So as climate change, we expect ozone to form faster."

Temperature and climate change can also elevate polluting emissions from trees.

Infrequent rainfall becomes problematic for the future because it's one of the important ways by which pollutants are removed. So in places due to get drier, West's team expects more pollution because there's less removal by rainfall.

Temperature and climate change can also elevate polluting emissions from trees. "Trees emit organic compounds that react in the atmosphere to form ozone and particulate matter," West said. "Under climate change, we expect that trees will release many more pollutants."

Why it matters

- Mortality in the U.S. would see annual increase of 8,000 people by 2030 and 19,000 by 2100, primarily on the East Coast due to changes in temperature and rainfall.
- East Asia and India are predicted to see the greatest jump in deaths caused by climate-driven air pollution. Africa is mostly spared by this facet of climate change, because increases in precipitation would drive air pollution downward, West said.
- This mortality burden, studied by West's team, is limited to just air pollution. Spikes in deadly heatwaves could threaten 75 percent of the globe by 2100, while global warming is already reinforcing severe storms. The number of U.S. storms resulting in at least $1 billion in damages has steadily increased since 1980.

What happens next?

West and his colleagues predict these negative impacts on global and regional mortality could be prevented by reducing long-lived greenhouse gas emissions.

Prior work by their team found that up to 700,000 lives could be saved annually by 2030 if humans curb their production of air pollutants, including greenhouse gases.

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Court allows EPA 2-month freeze in Ark.

haze suit

Greenwire

By: Sean Reilly

Published: July 31, 2017

A federal appellate court has granted U.S. EPA's request for a two-month hold on litigation surrounding a haze reduction plan for Arkansas, but with a warning that it will not look favorably on future delays.

The 8th U.S. Circuit Court of Appeals issued the two-sentence ruling this morning, a week after EPA — allied with power producers and Arkansas Attorney General Leslie Rutledge (R) — sought the freeze in hopes of letting settlement talks advance (*Greenwire*, July 25). The bid was opposed by the National Parks Conservation Association and the Sierra Club, which unsuccessfully argued to let the package of consolidated lawsuits proceed in tandem with the talks.

In today's ruling, the court agreed to hold the ligation in abeyance until Sept. 26.

The regional haze rule, published last September in the final months of the Obama administration, is intended to cut yearly emissions from coal-fired power plants owned by Entergy Corp. and other Arkansas electricity producers by tens of thousands of tons, with a goal of improving visibility in national wilderness areas and a wildlife refuge in Arkansas and Missouri.

But Rutledge has argued that the required pollution controls could jeopardize the reliability of the state's electric grid, while Entergy contends that its share of the expense could add up to more than $2 billion.

Under the Trump administration, EPA recently proposed giving three power plants covered by

the plan an 18-month extension on meeting requirements to reduce emissions of nitrogen oxides. At the agency's request, the 8th Circuit had first frozen legal proceedings in the litigation in March; the Arkansas Department of Environmental Quality is also drafting its own plan as a partial replacement for last year's federal rule.

EPA's broader regional haze program, dating back to 1999 in its current form, has a goal of restoring natural views to 156 national parks and wilderness areas by 2064.

Under current EPA chief Scott Pruitt, a critic of the Obama administration's approach, the agency has also won a court-approved stay on lawsuits over a Wyoming regional haze plan to allow a partial settlement to take effect (*Greenwire*, June 20). This month, EPA officials also sought to freeze legal proceedings over yet another plan affecting two PacifiCorp power plants in Utah, to give them time to administratively reconsider the plan's requirements (*Greenwire*, July 19).

That motion is pending before the 10th U.S. Circuit Court of Appeals. PacifiCorp and most other parties in the litigation filed their responses to the motion last week; the reply from a coalition of public health and environmental groups is due by this Friday.

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The Energy 202: How Pruitt's hustle to deregulate the EPA may bite him

The Washington Post

By: Dino Grandoni

Published: August 1, 2017

In his aggressive pursuit of rolling back Obama administration regulations, President Trump's top environmental official may be bumping up against his legal limits.

Late Monday, the U.S. District Court for the District of Columbia ordered the Environmental Protection Agency to enforce an Obama administration rule limiting the amount of methane, a powerful greenhouse gas, that can be emitted from new or modified oil and gas wells.

The 9-to-2 decision comes after an earlier ruling in July striking down as illegal a 90-day delay in the implementation of the decision compelling oil and gas well operators to plug methane leaks. Industry groups argued that the federal rules were unnecessary as they duplicated state efforts to rein in emissions.

Where much of the rest of the Trump agenda on health care or a tax rewrite flounders, EPA Administrator Scott Pruitt is plugging away at repealing Obama-era regulations and helping bolster the president's claim that he is keeping his campaign promise to deregulate the fossil-fuel sector. With both chambers of Congress led by the GOP, environmentalists opposed to that agenda have turned to the courts to block Trump's policy.

The methane rulings may just be the start of the legal pendulum swinging back to their side. Most of the headlines the EPA has generated during Trump's six months in office boil down to this: The EPA will begin the lengthy review process of undoing such-and-such rule.

For example, in February, **Trump surrounded himself with cameras and lawmakers to sign an executive order** targeting a clean-water rule that greatly expanded the number of waterways that fall under federal protection.

Though Pruitt has publicly indicated to Congress that the EPA would "provide clarity" by "withdrawing" the clean-water rule, the agency only took its first step in a dual-prong process by officially rescinding the decision last week. And even so, the EPA must take the time to address the thorny legal question the Obama rule sought to address. Those include what waterways fall under the jurisdiction of the ambiguously worded Clean Water Act. Litigants have tried and failed to sort out that question in the courts for years.

Here's the problem: Pruitt's hustle may be just now coming back to bite him in his quest to cut down on red tape he thinks is hurting the energy sector -- thereby making it harder for him to implement the Trump environmental agenda. The Administrative Procedure Act requires the EPA to seek public comment and state its justification before suspending a rule as it

is being considered for repeal. And there are court challenges that could get in the way if the administration isn't careful.

Bethany A. Davis Noll, an attorney at the Institute for Policy Integrity, and Richard L. Revesz, a New York University law professor, argue that the EPA is cutting corners in striking down Obama administration rules.

The lawyers argue that Pruitt has suspended rules without taking actions required beforehand.

"Pruitt's willingness to play fast and loose has helped his anti-regulatory reputation soar," the two lawyers write in Slate. "But the brazen deficiencies in the agency's work exposing the hollowness of Pruitt's 'rule of law' rhetoric should give Pruitt's supporters pause. Once the judicial challenges run their course, Pruitt may be striking out a lot more."

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Pruitt's Deregulation Spree Has Cut Corners

Slate

By: Bethany A. Davis Noll and Richard L. Revesz

Published: July 31, 2017

Say what you want about this administration's competence, but there's one area where they are succeeding for now: Scott Pruitt has been the Environmental Protection Agency's administrator for a short five months and already he has speedily and forcefully upended an unprecedented number of environmental rules, earning a reputation as one of the few Cabinet members to effectively move Trump's deregulatory agenda forward. Pruitt claims that these regulatory rollbacks represent a return to the "rule of law," but he has pursued them in a lawless fashion, cutting corners and ignoring fundamental legal requirements. Now, failing to follow the rules of the game is catching up with him—his EPA recently suffered its first courtroom defeat, kicking off what is likely to be a long losing streak and creating regulatory uncertainty along the way.

On July 3, the U.S. Court of Appeals for the District of Columbia Circuit—the court that will hear many of the challenges to the EPA's onslaught of rollbacks—nixed Pruitt's attempt to delay a rule limiting methane leaks at oil and gas facilities. The rule would require companies to plug methane leaks, which would help recover valuable natural gas as well as help clean up the air. But at the request of industry, Pruitt decided to suspend the rule's compliance deadlines. To justify the delay, he relied on a section of the Clean Air Act that allows the EPA to temporarily suspend a rule while considering objections that could not have been raised prior to the rule's issuance. Pruitt claimed that this standard was met, but the court found his claim to be obviously false: Not only could the objections have been raised earlier, but they *were* in fact raised by industry before the rule was finalized. Strike one for Pruitt.

Federal agencies are not authorized to suspend rules first and figure out their reasons later.

Pruitt's other repeal efforts are full of similarly questionable moves. Some of these actions have already been challenged in court; other suits are likely to follow. For example, the Administrative Procedure Act requires EPA to seek and respond to public input before taking major deregulatory steps. But Pruitt has been attempting to bypass that requirement by suspending rules indefinitely without public comment.

Both the Clean Air Act and the Administrative Procedure Act allow Pruitt to suspend rules only before they become operative. Once a rule goes into effect, compliance deadlines cannot be suspended without a public revision process. (This system provides needed certainty and predictability to the industries these rules affect, since facilities may need time to prepare for compliance and also want to know that the rules will not suddenly shift underfoot while they prepare.) Pruitt has paid no attention to these issues and has suspended compliance deadlines for several rules—including the toxic water pollution rule and a rule limiting methane emissions from landfills—long after those rules were effective.

Under the Administrative Procedure Act, the EPA also must give good reasons for suspending or repealing a regulation at the time that decision is finalized. But Pruitt recently blew off this requirement when he indefinitely suspended the compliance deadlines in a regulation seeking to improve safety at facilities that deal in dangerous and explosive chemicals. He provided no reasons for the change beyond the fact that the EPA was considering repealing the rule at some unspecified point in the future. But federal agencies are not authorized to suspend rules first and figure out their reasons later. They are supposed to give their reasons so that the public can comment on them *before* a deregulatory move.

The EPA must weigh the costs and benefits of any decision to cancel public health or environmental protections. Instead, Pruitt has been using a variety of excuses to ignore the lost health and environmental benefits that result from his rollbacks. For example, in a recent proposal to suspend a Clean Air Act rule, the EPA stated that information about the forgone benefits of the rule is "currently unavailable"—despite the fact that the details of the original rule's benefits were published just last year and remain available to all. In a proposal to repeal a major Clean Water Act rule, the EPA claimed that a large category of benefits can no longer be quantified because the data that the agency originally relied on was published before 2000. But data that was just as old was fine when it came to calculating the cost savings of the proposed repeal. And in suspending the compliance deadlines in the rule updating safety measures at chemical facilities, the EPA absurdly claimed that the benefits of the rule will "not be impacted" despite the indefinite delay of safety improvements that will help reduce danger to police and firefighters responding to chemical disasters.

Pruitt's willingness to play fast and loose has helped his anti-regulatory reputation soar. But the brazen deficiencies in the agency's work exposing the hollowness of Pruitt's "rule of law" rhetoric should give Pruitt's supporters pause. Once the judicial challenges run their course, Pruitt may be striking out a lot more.

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States ask court to toss Congressional Review Act lawsuit

E&E News

By: Arianna Skibell

Published: July 31, 2017

Sixteen states are urging a federal court to dismiss an environmental group lawsuit against the Congressional Review Act, which gives lawmakers tools for undoing administration actions.

The lawsuit, filed by the Center for Biological Diversity in U.S. District Court for the District of Alaska, argues that a CRA provision violates the Constitution's separation of powers doctrine by preventing agencies from issuing a "substantially similar" rule to the one overturned.

At issue in the lawsuit is a 2016 Fish and Wildlife Service rule that gave the federal government tighter control over managing predatory animal populations on the 76 million acres of national wildlife refuges (*E&E News PM*, April 20). Congress scrapped it during the beginning of the Trump administration.

The states, in a friend-of-the-court brief filed earlier this month and accepted Friday, said it was CBD's lawsuit, not the CRA, that threatened separation of powers.

"The lawsuit attacks the separation of powers because it asks the federal courts to override a law ... that was passed by the House and the Senate, and signed by the President, on the theory that Congress must use different (and more cumbersome) operating procedures to enact that law," said the brief.

Texas Attorney General Ken Paxton (R) recently joined the coalition, saying the CRA provides Congress an efficient procedure to stop federal overreach and block "onerous regulations."

"There is something unconstitutional in this area: federal agencies wresting power to write laws away from Congress," he said in a statement. "The CRA restores the Constitution's separation of powers. If the CRA is unconstitutional, then the Constitution is unconstitutional."

Wisconsin Attorney General Brad Schimel and Georgia Attorney General Chris Carr, both Republicans, led the amicus brief. They were joined by Paxton along with the attorneys general from Alabama, Arizona, Arkansas, Indiana, Kansas, Louisiana, Missouri, Nebraska, Nevada, Oklahoma, South Carolina and Utah.

Last month, Alaska joined the conservative Pacific Legal Foundation in filing a motion to intervene and dismiss the complaint, arguing in part that CBD's case was premature because it deals with future action that may not occur (*Greenwire*, June 1).

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Dingell proposes legislation to prevent closure of EPA offices

Michigan Live

By: Ryan Stanton

Published: August 1, 2017

ANN ARBOR, MI - U.S. Rep. Debbie Dingell is proposing legislation to ensure U.S. Environmental Protection Agency offices stay open, including those in Ann Arbor and Grosse Ile.

Dingell, D-Dearborn, is co-sponsoring what's being called the REGION Act to prevent the closure of any EPA regional or program offices.

The acronym stands for Recognizing the Environmental Gains in Overcoming Negligence.

Dingell argues President Donald Trump's budget proposal from earlier this year would gut the EPA and shutter several offices, including the National Vehicle and Fuel Emissions Laboratory in Ann Arbor, which employs 435 people, and the Large Lakes Research Station office in Grosse Ile, which houses more than a dozen Emergency Response Division employees tasked with responding to and cleaning up environmental hazards or accidents.

"Hardworking EPA employees in Ann Arbor and Grosse Ile play a vital role in protecting our communities - whether it's reducing vehicle emissions and keeping the U.S. at the forefront of innovation or cleaning up toxic spills that threaten the health of our families and environment," Dingell said in a statement.

"We cannot afford to lose these jobs or halt the critical work taking place in these areas. This legislation will ensure that this important work continues in Michigan and at EPA offices across the country, where dedicated scientists, engineers and public servants are working every day to protect the air we breathe and the water we drink now and for the future. This must remain a top priority."

The legislation also would prevent the closure of the EPA Region 5 office in Chicago, which serves Michigan, Illinois, Wisconsin, Indiana, Minnesota and Ohio. Dingell said the office is critical to protecting the air, water and health of residents in Great Lakes states.

The legislation is being co-sponsored by U.S. Reps. Marcy Kaptur of Ohio, Betty McCollum on Minnesota, Mike Quigley and Bobby Rush of Illinois, Louise Slaughter of New York, as a companion to legislation Sen. Tammy Duckworth of Illinois introduced in the Senate.

Dingell visited the Ann Arbor EPA lab in May to speak out against Trump's proposed cuts to the EPA. Dingell said the lab on Plymouth Road conducts critical research, testing, analysis and technological studies in support of the establishment and monitoring of fuel-economy and vehicle-emission standards.

Trump's budget plan from earlier this year proposed cutting the EPA's overall funding by 31 percent, a reduction of $2.6 billion.

The president's stated priority is to "ease the burden of unnecessary federal regulations that impose significant costs for workers and consumers without justifiable environmental benefits."

"This would result in approximately 3,200 fewer positions at the agency," the May budget proposal stated. "EPA would primarily support states and tribes in their important role protecting air, land, and water in the 21st century."

The House Appropriations Committee approved a spending bill this month that would cut EPA funding by $528 million or 6.5 percent. The cuts are far less severe than what Trump proposed.

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EPA won't be able to do the 'right thing' under Trump, says latest protesting official

The Washington Post

By: Joe Davidson

Published: August 1, 2017

Elizabeth "Betsy" Southerland loved her work at the Environmental Protection Agency.

Then Donald Trump and Scott Pruitt came along.

Now Southerland, who was director of science and technology in the agency's Office of Water, said she is "heartbroken about the impact of the new administration on environmental protection in this country."

After 30 years at EPA, her last day was Monday.

Southerland becomes the latest in a series of protesting federal scientists. She denounced the destructive environmental policies of President Trump and EPA Administrator Pruitt. Family concerns played an important role in her decision to leave, but she also can't stomach the current direction of an agency that answers to a White House wallowing in disarray and disgrace.

In a statement planned for release Tuesday by Public Employees for Environmental Responsibility (PEER) and during email and phone interviews with The Washington Post, she talked about how "EPA has been the guiding light to make the 'right thing' happen for the greater good, including public health and safety."

But with Trump and Pruitt in charge, "that will not be possible under the current administration."

Their attack on environmental protections marks the "abandonment of the polluter pays principle that underlies all environmental statutes and regulations," she said. "The best case for our children and grandchildren is that they will pay the polluters bills through increased state taxes, new user fees, and higher water and sewer bills. The worst case is that they will have to live with increased public health and safety risks and a degraded environment." Furthermore, she warned that Trump's planned 31 percent EPA budget cut would lead to the loss of thousands of public- and private-sector jobs.

"There is no question," she said, "the administration is seriously weakening EPA's mission by vigorously pursuing an industry deregulation approach and defunding implementation of environmental programs."

Southerland went public with her opposition to Trump's environmental program, because she said "I felt it was my civic duty to explain the impact of this administration's policies on public health and safety."

A PhD in environmental science and engineering, Southerland called her more than four decades of environmental work, including three with EPA, "the most wonderful 40 years." Two years ago she was honored with the Distinguished Presidential Rank Award, given to just 1 percent of Senior Executive Service members for "sustained extraordinary accomplishment." In Southerland's case, she was recognized for her work in lowering swimming health risks by developing new national bacteria water quality standards.

Raised in Alexandria and residing in Fairfax Station, Southerland, 68, is married, has two sons and enjoys hiking. She will volunteer with the Environmental Protection Network, a group of former EPA staffers.

Southerland's resignation comes during the same month a Union of Concerned Scientists report said Trump is creating a "hostile environment for scientific staff."

That report was released the day after Interior Department scientist Joel Clement wrote a Washington Post opinion article saying Trump's crowd retaliated against him "for speaking out publicly about the dangers that climate change poses to Alaska Native communities."

In March, Mike Cox also cited the dangers Alaska Natives face from climate change when he quit EPA. In a letter to Pruitt, Cox said administration policies "are contrary" to those Americans want "to ensure the air their children breath is safe; the land they live, play, and hunt on to be free of toxic chemicals; and the water they drink, the lakes they swim in, and the rivers they fish in to be clean."

Reacting to Southerland's remarks, EPA spokesman Jahan Wilcox said that "it's hard to believe that Elizabeth Southerland is retiring because of a budget proposal and not because she's eligible for her government pension. We wish Elizabeth Southerland the best in her retirement and the EPA will continue to re-focus on our core mission of protecting our air, land and water."

Kyla Bennett, PEER's New England director, placed Southerland's departure in a broader context: "Increasingly principled professionals, who have proudly served administrations from both parties, are under orders to betray, rather than serve, the public interest by remaining at EPA."

But don't get the impression these examples of dissent are proof of revolt among federal employees. That is not the case.

"Everyone is focused on presenting all the facts to the new political team in hopes the facts will change their minds about defunding existing environmental programs and repealing existing rules," Southerland said by email. "I do not know even one EPA employee who is doing anything to sabotage the existing political team. They are all doing their absolute best to give the politicals all the facts so they can make the right decision if they are open-minded. I personally do not know anyone who is planning to resign in protest, but I can confirm that staff involved in the [regulatory] repeal efforts already underway are heartbroken."

She closed her written farewell to colleagues with a message that mixed rebuttals to Trump and

Pruitt with the hope others in government will save us from them.

EPA suffers "from the temporary triumph of myth over truth. The truth is there is NO war on coal, there is NO economic crisis caused by environmental protection, and climate change IS caused by man's activities," she wrote using capital letters for emphasis.

"It may take a few years and even an environmental disaster, but I am confident that Congress and the courts will eventually restore all the environmental protections repealed by this administration because the majority of the American people recognize that this protection of public health and safety is right and it is just."

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Foes in bitter Ala. GOP primary agree they hate EPA

E&E Daily

By: Nick Bowlin

Published: August 1, 2017

Energy and environmental issues have barely informed the dramatic Alabama Republican Senate special election primary thus far.

There's a reason for that, according to Stefanie Francisco, communications director for Conservation Alabama: Voters already know where the GOP candidates stand.

The front-runners in the race align on issues like offshore drilling, mining and environmental regulation rollbacks, according to Francisco, who works for the state branch of the League of Conservation Voters.

"It's definitely not a central issue," she said.

Personal attacks and clashes over conservative credentials have defined the race so far, with vicious volleys flying between the campaigns of appointed Sen. Luther Strange and Rep. Mo Brooks.

Strange blasts Brooks for criticizing President Trump in 2016. Brooks fires back touting his conservative voting record and noting the circumstances of Strange's appointment to the Senate.

Strange was chosen by former Gov. Robert Bentley (R), who resigned under a cloud of scandal last spring. He appointed Strange, then the state attorney general, which brought accusations of a backroom deal.

The seat was vacated when the state's longtime junior senator, Jeff Sessions, became Trump's attorney general.

So far, neither Strange nor Brooks has attacked Roy Moore, the former state Supreme Court justice and conservative icon who is also in the Senate race.

The first public polling shows Moore and Strange neck and neck. Thirty-five percent of respondents backed Strange, with Moore just behind at 33 percent. Brooks trailed with 16 percent. The survey had a 2-point margin of error and was conducted by Strategy Research for the Raycom News Network. It sampled 3,000 registered voters on July 24.

Brooks, Moore and Strange are the easy favorites in the primary field of nine. Hard-line conservatives with broad state name recognition, the three will compete for the top two spots in the Aug. 15 contest. None is expected to gather the majority of the vote needed to win outright. The top two vote-getters would advance to a Republican runoff on Sept. 26.

EPA 'bogeyman'

Whoever takes the nomination will bring a strong anti-regulatory stance to the Dec. 12 general election.

Brooks, Moore and Strange are avowed critics of federal agencies, claiming they stymie economic growth and intrude on states' rights. Each frames U.S. EPA as emblematic of the problem.

On his campaign page, Moore states, "We need to foster development of our own natural resources involving nuclear, solar, wind and fossil fuels. Coal mining and oil drilling should be encouraged, subject only to reasonable regulations."

Brooks has a long anti-regulation record in Congress. He has been a vocal supporter of the Trump administration's regulatory rollback efforts and voted to kill Obama-era rules using the Congressional Review Act. A longtime backer of space exploration funding — NASA has a major facility in Huntsville, Ala. — he opposes space agency spending tied to climate research.

"The EPA's job-killing agenda undermines America's economy while driving up the cost of living for struggling American families," he said in a June 2016 House Science, Space and Technology Committee hearing.

"The EPA is a bogeyman in the race as usual," Francisco said.

That's particularly true for Strange. Of the three, the former attorney general has the longest history with energy and environmental issues, and he often touts his legal challenges to EPA and the Clean Power Plan as attorney general while campaigning.

"Luther fought the Obama administration's overreach all the way to the Supreme Court, defending Alabamians from big government intrusions by career politicians and bureaucrats,"

reads his campaign website.

Strange was one of 27 state attorneys general to sue the Obama administration over the landmark climate measure. In December 2016, he joined 23 other attorneys general in a letter to the Trump transition team describing how to dismantle the CPP using executive orders, rulemaking and legislation.

Strange also headlined a lawsuit by more than a dozen states against an Obama-era expansion of Endangered Species Act protections and joined Texas Attorney General Ken Paxton (R) on behalf of Exxon Mobil Corp. in 2016, challenging a subpoena that directed the company to disclose what and when the company knew about climate change.

"He's shown a willingness to challenge any move by the federal government at environmental enforcement at the state level, often from a states' rights perspective" said Nelson Brooke of Black Warrior Riverkeeper, an Alabama environmental group.

Strange embarked on many of these lawsuits with U.S. EPA chief Scott Pruitt, then Oklahoma's attorney general. The two are longtime allies. They co-wrote an op-ed in the *National Review* that called the climate change debate "far from settled," a phrase Democrats used to attack Pruitt during his confirmation hearing.

Both chaired the Republican Attorneys General Association, a group with deep ties to fossil fuel interests, particularly the petrochemical billionaires Charles and David Koch. The Koch political action committee donated to Strange's Senate campaign this spring, according to Federal Election Commission filings.

Nearly every energy dollar donated to the race has gone to Strange. Employee political action committees from industry heavyweights like Exxon Mobil Corp., Chevron Corp., Tesoro Corp., Halliburton Co., ConocoPhillips Co., Anadarko Petroleum Corp. and others have donated money to the campaign. Neither Brooks nor Moore has received any money from a major national oil and gas company, according to FEC filings.

Old King Coal

Strange also boasts backing by state-level energy interests. In Alabama, that means coal.

The mining industry has deep Alabama roots. Birmingham, the largest city, was once the industrial hub of the southern United States, with vast deposits of iron ore, coal and limestone.

While coal is on the wane as market forces boost natural gas and renewables, coal-production companies like Drummond Co. Inc. and utilities like Alabama Power — a branch of the Southern Co. — and the Tennessee Valley Authority retain political heft in Alabama.

As attorney general, Strange was known as a coal supporter, and industry interests have been generous in the Senate primary. Alabama Power's employee PAC gave Strange $10,000 this spring, according to FEC documents. Drummond's equivalent contributed $5,000 to the campaign committee in December, while he was still attorney general. Drummond Coal Sales President George Wilbanks provided the maximum individual donation of $2,700.

Alabama Power has given $5,000 to Brooks over the course of the campaign. Moore has not received energy PAC donations so far. Their campaigns did not respond for comment on coal policy.

Like his predecessor Sessions, Strange supports Pruitt's efforts to slash EPA regulations, ease regulations on utilities and work with state agencies. Strange said he backs a May rule revision that made coal ash dumping standards more flexible (*E&E Daily*, May 2).

"I look forward to working with EPA Administrator Pruitt on extending the Coal Combustion Residuals Rule compliance deadlines and continuing our efforts to jump-start America's energy economy," he said.

Alabama Power says it will cap about a dozen toxic ash ponds. The utility gets about half of its

power from coal and called it a "significant part of our diverse supply of energy sources," according to *The Birmingham News* in May 2016.

Strange's coal connections have hurt him in recent weeks. A state representative recently told federal investigators that Drummond officials offered him a bribe in 2014 in exchange for fighting the EPA designation of a Superfund site near Birmingham, according to an article in the *Alabama Political Reporter*.

State Rep. John Rogers (D) said Strange was in the room when the bribe was offered. The article noted that Drummond gave Strange $75,000 in campaign contributions over 2014-15.

Drummond was later named partially responsible for the pollution.

Strange's campaign called the article "fake news."

But yesterday, the Project on Government Oversight released a report linking Strange and Sessions to the scandal. The watchdog group demanded that Strange recuse himself from voting on Trump's nomination of Jay Town to be U.S. attorney for the Northern District of Alabama because that office is running the bribery investigation.

Strange's record

Alabama environmentalists panned Strange's appointment in February, citing his industry ties and tenure as attorney general.

"Our fear is that he's going to continue his track record, which is to not place clean water protections as a high priority," said Mitch Reid, then the program director at the Alabama Rivers Alliance, a water resource nonprofit.

But advocates split over Strange's efforts prosecuting BP PLC after the Deepwater Horizon explosion and oil spill.

Strange was attorney general in 2010 when more than 215 million gallons of crude oil poured from the breach at BP's Macondo well in the Gulf of Mexico, devastating coastlines, including Alabama's. The area has not recovered.

In the subsequent case against BP, Strange served as coordinating counsel for the plaintiff states. In total, BP will pay more than $60 billion in damages, fines and cleanup costs. The state of Alabama will receive several billion dollars from a variety of settlement avenues.

"He did a good job for the state," Francisco said. "He represented the state well and helped get the coastal recovery money."

Not all agree. Others say Strange made no attempt to direct funds from the main settlement, a $1 billion payment to Alabama from BP, to coastal restoration and environmental causes. The majority of the dollars went to state debt payments, highway projects and Medicaid, the critics say.

And while Strange may have prosecuted BP as Alabama's top cop, his overall enforcement record was poor, according to Keith Johnston, managing attorney for the Southern Environmental Law Center.

"In my view, during Strange's tenure as AG, there was never a focus on environmental protection in the state," he said.

As several advocates noted, litigating against BP does not stop Strange from supporting offshore drilling.

Strange backs Interior Department chief Ryan Zinke's plan to lease 73 million marine acres off five Southern states: Florida, Alabama, Texas, Louisiana and Mississippi. The lease process would start in August.

"I share the Trump administration's goal of strengthening the United States' position as an energy superpower by pursuing a new five-year program on lease sales, enhancing opportunities for exploration, leasing and development of new energy sources," Strange said in a statement to E&E News.

The Brooks and Moore campaigns did not respond to questions on energy policy. Brooks has voted to expand offshore oil exploration in the past, and Moore is a staunch fossil fuel advocate. Both reject established climate change science.

"It's taken for granted that that's what we do in Alabama: We drill offshore," Francisco said. "That's not going away anytime soon. I don't think that's even up for debate."

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Trump Wants the EPA Radon Program Cut. So Do Some Scientists

Wired

By: Nick Stockton

Published: July 31, 2017

Woe be to the Environmental Protection Agency. If President Trump gets his way, the federal agency will lose 31 percent of its annual budget—about $3 billion. Supporters of Trump's 2018 budget proposal call it a "back to basics" approach, carving away what they see as the agency's regulatory overreach. Opponents are similarly pithy: The EPA's former director labeled Trump's proposal a "scorched Earth budget."

Disagreements over the utility of the EPA's programs typically fall along the partisan lines you might expect. But not all of them.

At least one of Trump's proposed budget cuts targets a program that some scientists have been questioning for decades: residential radon risk. That program, which sets the standards for risk and protection from radon gas, would be completely zeroed out. Now, according to the EPA, the WHO, and many other big public health organizations, radon is second only to cigarette smoking as a leading cause for lung cancer. The EPA says radon gas causes 21,000 deaths *every year*. Yet some critics in the health care profession say that's all baloney.

Trump's budget hasn't passed. It still has to survive the congressional gauntlets, full of many senators and representatives who have already voiced opposition to many of the EPA cuts, including to the radon program. But some scientists might actually *want* the EPA to back off on this one.

The issue here isn't whether radon causes cancer. It does, certainly. But scientists can only prove that radon is carcinogenic at high doses. Like, rates typically found in mine shafts, not suburban homes. Critics say the EPA's method for establishing low-dose radon risk assessments is simply unscientific. Some even go so far as to say low doses of radiation might *help* your body fight cancer. Follow that logic through, and they say the EPA's low dose radon risk assessment could actually be harming people.

It's Coming from Inside the House

Radon is radioactive gas emitted when uranium decays. And because most rocks contain traces of uranium, it leaks from the soil virtually everywhere on Earth. Like uranium, radon decays, too. If it does this in your lungs, the alpha particles it releases can harm the DNA in your cells. "When we talk about radon risk, we really mean the risk from radon and its decay products," says Phillip Price, a physicist at Lawrence Berkeley National Laboratory. If enough DNA gets damaged, the mutations pile up and … lung cancer.

Radon is everywhere, but it doesn't usually pose much of a risk because it disperses into the open air. "What's unnatural are the radon levels that accumulate indoors," says James McLaughlin, president of the European Radon Association.

Scientists began to recognize the threat in the 1970s, when epidemiologists found that miners were getting lung cancer at higher-than-average rates. The tunnels they worked in were *full* of radon gas. But the agency's real work started after 1984, when an engineer at the Limerick Nuclear Power Plant in Pennsylvania set off radiation alarms as he was coming *in* to work. After some sleuthing, public health experts figured out that his house was filled with radon. Like, uranium mine levels of radon. This set off a national panic—homeowners feared their home might have similarly high levels.

By 1986, the EPA established an indoor radon risk exposure level—4 picocuries per liter of air. It's similar to that recommended by the World Health Organization and the European Union. That number isn't tied to any regulations: Instead, the EPA recommends that people test their homes (which can cost between $20 and $200) and take action if necessary—say, by installing fans and vents to improve airflow. Hiring a contractor to ventilate your basement can run into the thousands.

Radon? Maybe Radon't

That number, 4 picocuries, is a funny one. Because here's the thing: The scientific model used to come up with that limit says there's *no* acceptable level of radon exposure. None.

It's called the linear no-threshold model, and it's used to estimate risk for low doses of carcinogenic materials. See, it's not hugely controversial to link lung cancer to high radon levels, like those found in a mineshaft. But it's impossible to directly establish a link between low levels of radon and cancer. There are just too many other possible carcinogens, like air pollution, second hand smoke, and even random DNA mutations.

So, the linear no-threshold model takes the cancer rates in highly-exposed populations—those uranium miners—and extends them to lower doses of radiation. It then multiplies that very small risk across a huge number of people in order to estimate the total number of future cancers. That's how the EPA estimated that radon causes 21,000 annual lung cancer deaths.

Radiation risk professionals use the linear no-threshold model to determine the exposure risk from all sorts of other radioactive and carcinogenic material. "The idea is that twice as much radiation means twice as many cells with damaged DNA, and if each cell with damaged DNA has a certain chance of initiating a cancer, then *ceteris paribus* you have the linear no-threshold model," says Price. "That's not crazy."

But if there's no threshold below which radon doesn't increase cancer risk, how did the EPA settle on 4 picocuries per liter of indoor air as its recommended exposure limit? For one thing, radon becomes both more difficult to detect and remove at lower doses. That translates into dollars. When the EPA established the 4 picocurie action level in 1986, it estimated each saved life cost around $700,000. Lower that to 3 picocuries, and the cost per life more than doubles, to $1.7 million. At 2 picocuries, $2.4 million.

Low Limit Soldiers

Critics contend that money probably isn't saving anyone. "I personally think the linear no-threshold model is over conservative, and does waste a lot of money that could be better spent," says Cynthia McCollough, a radiologist. "Using the linear no-threshold model to *predict* future cancers is very bad science, and all radiation protection agencies agree on that." In fact, the Health Physics Society (a large scientific organization for radiation safety specialists) has officially stated that radon produces no statistically measurable health effects until levels reach about 27 billion picocuries. Even the EPA itself, in its 2003 assessment of household radon risk, seemed to agree: "The [committee tasked with establishing radon risk] adopted the linear no-threshold assumption based on our current understanding of the mechanisms of radon-induced lung cancer, but *recognized that this understanding is incomplete and that therefore the evidence for this assumption is not conclusive*." (Emphasis added.)

Despite that admission, the EPA went ahead with the linear no-threshold model for radon out of an abundance of caution. But some critics say the agency's overprotective action might actually be harming people. "The linear no-threshold model is based on the concept that increased radiation and increased mutations cause cancer. That assumption is fundamentally wrong," says Mohan Doss, a physician at the Fox Chase Cancer Center in Philadelphia. That's because, Doss says, it ignores biology.

Humans develop DNA mutations all the time. Most of them do not turn into cancer. One theory why, says Doss, is that the immune system moves in and gets rid of those afflicted cells early on.

He goes so far as to say that low-dose radiation might *prevent* lung cancer. Doss points to animal studies showing that low doses of radiation might help the body fight cancer by activating the immune system to clear away mutated DNA. "These boosted defenses actually reduce the DNA damage that would have occurred in absence of radon exposure," he says. If he's right, that means the EPA's guidance levels aren't preventing cancer—they're causing it.

So, why doesn't the EPA listen to these low limit soldiers? Probably because organizations like it tend to be pretty risk-averse. Under the precautionary principle, it's better to overprotect than under-protect. And the total indoor radon program in the EPA's 2017 budget called for just $3.5 million. Also, remember how hard it is to establish radiation risk at low levels? That sword cuts both ways. "There's some shaky empirical evidence for a weak protective effect at 2 picocuries per liter compared to 0," says Price. But whether you're looking at health benefits or risks, *all* the evidence is pretty shaky below an exposure of about 8 picocuries.

Finally, consider inertia. The linear no-threshold model underpins not just the EPA's radon recommendation, but its risk exposure estimates for other radiation sources.

Most of the experts I spoke with didn't have a good idea about what effect, if any, Trump's promise to nix the EPA's radon program might have. McCollough said the real hit happened under Obama's watch, when the Department of Energy's Office of Science killed a program studying the biological effects of low dose radiation.

At least one, though, is rooting for the program's demise. "If the Trump administration nixes the EPA radon program, there would be little adverse impact on public health," says Doss. "But in fact there would be improvement of public health, by reducing lung cancers." Talk about scorched Earth.

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Chicago Cubs Give Steve Bartman a World Series Ring

The New York Times

By: Victor Mather

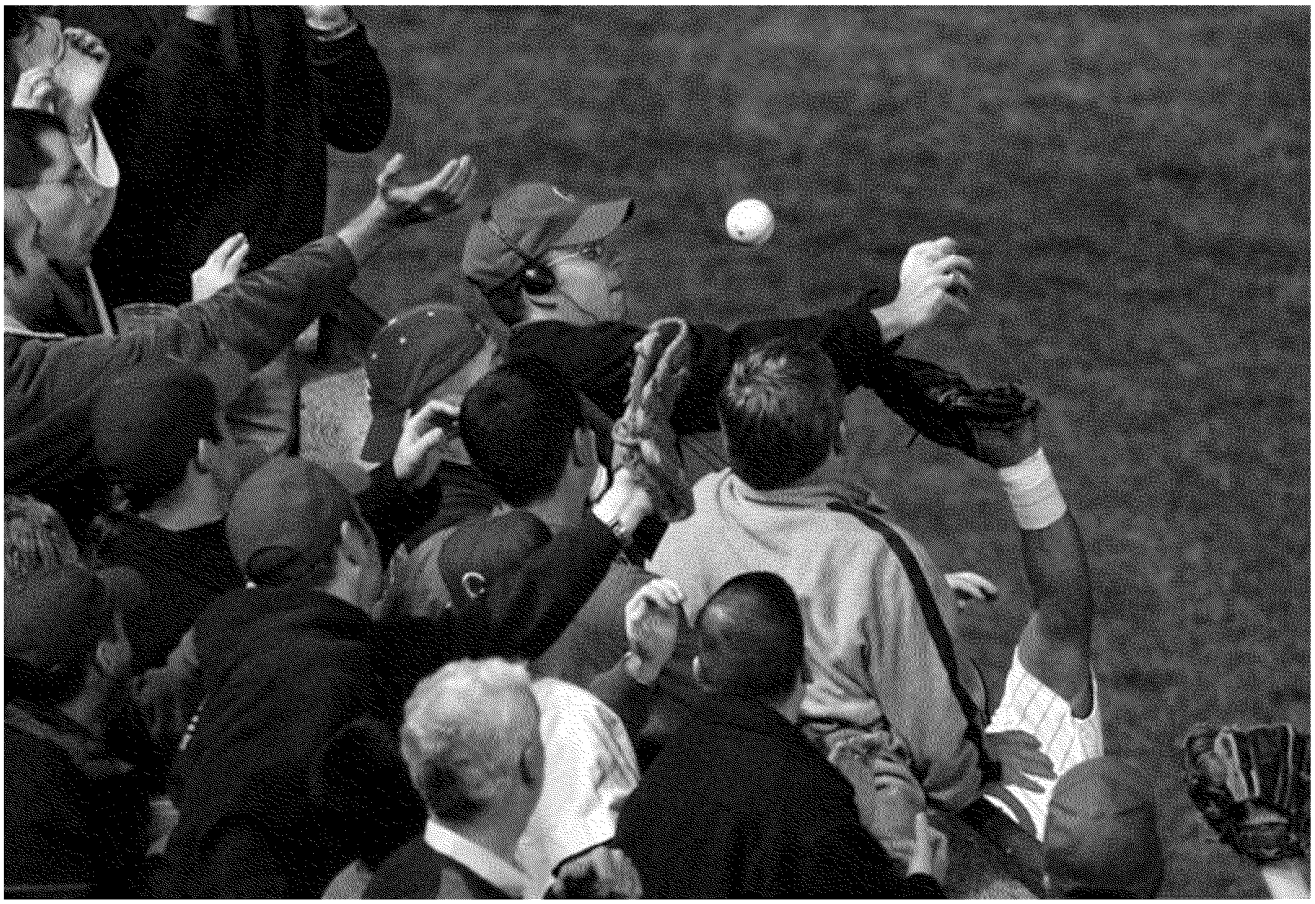
Published: July 31, 2017

Steve Bartman innocently reached up for a foul ball in 2003. He soon was the most reviled sports fan in America, with many people saying his act had cost the Chicago Cubs a chance at a long-elusive championship.

In 2016, the Cubs finally did win the title, after a 108-year wait. And now, eight months after that historic achievement, Bartman has received a World Series ring, said WGN-TV.

"We hope this provides closure on an unfortunate chapter of the story that has perpetuated throughout our quest to win a long-awaited World Series," the team said in a statement provided to WGN. "While no gesture can fully lift the public burden he has endured for more than a decade, we felt it was important Steve knows he has been and continues to be fully embraced by this organization."

In his own statement, Bartman said, "Although I do not consider myself worthy of such an honor, I am deeply moved and sincerely grateful."



Steve Bartman reached for a foul ball in 2003 and wound up with years of heartache after interfering with the Cubs' Moises Alou. Credit Morry Gash/Associated Press

"My hope is that we all can learn from my experience to view sports as entertainment and prevent harsh scapegoating," he added.

Bartman, a financial consultant, was seated in the front row at Wrigley Field for Game 6 of the 2003 National League Championship Series.

The Cubs were ahead, 3-0, in the eighth inning at Wrigley Field, needing just five more outs to make it to the World Series for the first time in 58 years. At which point, Bartman reached for and deflected a foul ball hit by Luis Castillo of the Marlins that Cubs left fielder Moises Alou seemed to have a good chance to catch. The Marlins went on to score eight runs in the inning and win the game, and amid abuse from fans, Bartman was escorted from the park.

The next night, the Marlins won Game 7 at Wrigley and went on to win the World Series, too. Bartman effectively went into hiding.

Bartman's defenders pointed out that he was acting instinctively in reaching for the foul ball and that his action did not cause the Cubs to surrender all those runs in the inning — an error on a potential double-play grounder was the biggest mishap — or lose the next night.

Bartman did apologize after the incident, but it seemed to take years for the resentment toward him to start to diminish. And the Cubs' long championship drought, the importance of that game and Bartman's memorable outfit of Cubs cap, headset and turtleneck when disaster struck all combined to make the incident grow to legendary proportions.

Numerous articles were written about Bartman over the years, and he was the subject of an ESPN 30 for 30 documentary in 2011.

Meanwhile, Bartman scrupulously avoided the news media, declining interview requests and commercial offers.

On Monday, however, he returned to Wrigley to receive his ring, his exile officially over. Whether he had quietly slipped into Wrigley before now to watch the Cubs play is not clear.

In his statement on Monday, Bartman said, "I am relieved and hopeful that the saga of the 2003 foul ball incident surrounding my family and me is finally over."

And if the Cubs make it back to the postseason this year to defend their championship, perhaps Bartman will even throw out a first ball.

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From: Johnson, Yvonne W
Sent: Thur 7/20/2017 6:34:50 PM
Subject: News Clips – July 20, 2017

News Clips – July 20, 2017

Air News

•□□□□□□□□ EPA seeks to freeze Utah regional haze litigation *(Greenwire)*

•□□□□□□□□ EPA, businesses blast states' bid to intervene in ozone case *(Greenwire)*

•□□□□□□□□ After governor's veto, CPS Energy steps in to fund ozone monitors *(San Antonio Express-News)*

Regulations

•□□□□□□□□ Report highlights 50+ rules stalled by Trump admin *(Greenwire)*

Budget & Staffing

•□□□□□□□□ Panel OKs spending plan; EPA, climate amendments rejected *(E&E Daily)*

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On this day in 1969, Neil Armstrong and Buzz Aldrin became the first to set foot on the moon

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EPA seeks to freeze Utah regional haze litigation

Greenwire

By: Sean Reilly

Published: July 19, 2017

U.S. EPA has agreed to revisit a contested plan to cut pollution from two Utah coal-fired power plants and is seeking to freeze litigation surrounding the plan, newly filed court documents indicate.

In a motion yesterday, agency lawyers asked the 10th U.S. Circuit Court of Appeals to hold lawsuits brought by PacifiCorp and the state in abeyance while the agency administratively reconsiders the regional haze rule published last July.

Recent letters from PacifiCorp and the Utah Department of Environmental Quality "identify new information that was not available to EPA at the time it promulgated the final rule," the lawyers wrote in explaining the agency's decision to grant reconsideration.

Last week, EPA Administrator Scott Pruitt told the company and the Utah department that they provided "sufficient information regarding existing and new evidence" on cost factors and other

differences between the federal plan and a previously proposed state alternative "to warrant reconsidering our prior action," according to reply letters attached to the motion.

As of this morning, the 10th Circuit had not ruled. In May, the court agreed to EPA's request for a 60-day delay in the briefing schedule for the consolidated litigation, partly on the grounds that the agency was seeking an administrative settlement.

Pruitt's decision to now reconsider the plan furnishes the latest evidence of the Trump administration's gentler tack to enforcing regulations under the regional haze program, which is supposed to clear the skies around 156 national parks and wilderness areas by 2064. *The Salt Lake Tribune* reported that Pruitt, who was in Utah yesterday, personally delivered a letter outlining his decision to Gov. Gary Herbert (R).

Under the Obama administration, EPA had imposed the haze reduction plan after deciding that the state alternative would do too little to cut releases of nitrogen oxides (NOx) from PacifiCorp's Hunter and Huntington plants in central Utah.

Under the plan, the Oregon-based power producer would eventually have to reduce NOx releases from the two facilities by almost 10,000 tons annually; EPA predicted the plan would improve vistas in eight national parks. The state's air quality chief has objected that the tighter controls would yield little visibility improvement, despite a projected $700 million price tag.

Nationwide, the Utah legal clash is one in a series of fights over the Obama administration's interpretation of requirements that older coal-fired plants adopt "best available retrofit technology" to cut haze-forming emissions. Among the critics has been Pruitt himself: As Oklahoma attorney general, he brought a lengthy, unsuccessful court challenge to a haze plan for that state.

"It shows an attitude of indifference," he said of EPA's approach at a Senate hearing in January on his nomination to head the agency, "an attitude of trying to be dictatorial in some respects toward the state's role or manipulative of the state's role in a way that's, I think, counterproductive for air quality" (*Greenwire*, Feb. 14).

Last week, EPA proposed giving three power plants in Arkansas another 18 months to meet NOx reduction requirements under a haze reduction plan for that state. The agency also recently sided with PacifiCorp and Wyoming state regulators in successfully urging the 10th Circuit to freeze legal proceedings in litigation over some elements of another haze plan while a partial settlement involving Basin Electric Power Cooperative is put into effect (*Greenwire*, June 20).

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EPA, businesses blast states' bid to intervene in ozone case

Greenwire

By: Sean Reilly

Published: July 19, 2017

Too late and out of place.

That's the initial response from U.S. EPA and business groups opposed to a recent bid by California and a half-dozen other states to intervene in long-running litigation over the agency's 2015 ground-level ozone standard.

"Such a request is due 30 days" after a petition for review is filed, attorneys for the U.S. Chamber of Commerce and an array of trade organizations wrote in a filing this week with the U.S. Court of Appeals for the District of Columbia Circuit. "California's request arrives 619 days after the first-filed petition in these consolidated cases."

In a separate response, EPA lawyers said that California and the remaining Democratic-led states should not have filed the intervention motion while the court is holding the litigation in abeyance and that they in any case lack legal "standing" to proceed.

And while the states voiced concerns that the Trump administration would not zealously defend the 70 parts per billion standard, that "hypothesis regarding what EPA may or may not do in the future is insufficient to meet the requirements for intervention in the present," the agency response added.

Ozone, a lung irritant that is the main ingredient in smog, is produced by the reaction of nitrogen oxides and volatile organic compounds in sunshine. It has been linked to asthma attacks in children and aggravated breathing difficulties in emphysema sufferers.

Under the Obama administration, EPA had adopted the 70 ppb threshold in October 2015 on the grounds that it was needed to protect public health. That decision was quickly contested by businesses and environmental groups, the former on the grounds that the new standard was unlawfully stringent, the latter arguing that it needs to be even tougher.

In April, the Trump administration asked the court to hold the litigation in abeyance while EPA officials rethink their position on the standard. Last month, agency chief Scott Pruitt pushed back attainment designations, which had been scheduled for this October, by a year.

California, Massachusetts and the five other states highlighted that postponement in making this month's bid to intervene in the standard's defense (*Greenwire*, July 7).

Allowing them to defend the 70 ppb benchmark is "the only way" to protect their states' interests in seeing the standard left in place, their motion added.

Signing on to this week's response by the U.S. Chamber are Texas and eight other states who also say the standard is too strict. Yesterday, the House approved legislation that would delay attainment designations until 2025 (*E&E Daily*, July 19).

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After governor's veto, CPS Energy steps in to fund ozone monitors

San Antonio Express-News

By: Brendan Gibbons

Published: July 19, 2017

CPS Energy will take over the funding for six air quality monitors that were shut down last month after a budget veto by Gov. Greg Abbott.

A contractor working for CPS will begin collecting ozone and weather data at the six stations in Bexar, Comal and Guadalupe counties, the utility announced in a news release late Wednesday.

"Each and every day, we serve our community by providing electric and gas service, so providing a solution to something as important to our community as air quality makes perfect sense," the city-owned utility's president and CEO, Paula Gold-Williams, said in a prepared statement.

The Alamo Area Council of Governments, a coalition of local governments funded only by grants and work agreements, had previously maintained the monitors with funding from the Texas Commission on Environmental Quality. Abbott's veto of $1.5 million from the TCEQ's two-year budget affected 10 urban areas where average ozone levels are close to violating federal health standards.

Ozone, the main ingredient in smog, forms when emissions from power plants, industrial facilities, airborne chemicals and vehicle exhaust pipes interact with sunlight. It irritates and damages the lungs and is linked to chronic health problems like asthma.

San Antonio's longterm ozone averages have been declining but are still at 72 parts per billion, slightly above the federal standard of 70 parts per billion set in 2015. San Antonio's Office of Sustainability has been pushing to reduce ozone levels after the City Council decided last year to double down on the issue.

The cost of running the six monitors through November and through next year's March-to-November ozone season will be $135,000, AACOG executive director Diane Rath said.

CPS's decision will help AACOG staff continue their photochemical modeling studies, she said. Their reports help local authorities understand where San Antonio's ozone comes from and how it behaves in the atmosphere.

"That is why I'm so grateful for this partnership with CPS," Rath said. "Having access to that information is critical."

CPS officials said they would add the six monitors to the two they are already maintaining. They also committed to installing another before next summer. Rath said the likely location is Government Canyon State Natural Area.

The TCEQ also maintains three air monitors used for regulatory purposes.

Despite San Antonio's levels not meeting the standard, U.S. Environmental Protection Agency Administrator Scott Pruitt said the EPA will not enforce it for another year. On Tuesday, the U.S. House passed a bill delaying enforcement until October 2026. The bill's cosponsors included Rep. Henry Cuellar, D-Laredo, and Rep. Lamar Smith, R-San Antonio.

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Report highlights 50+ rules stalled by Trump admin

Greenwire

By: Arianna Skibell

Published: July 19, 2017

The Trump administration has delayed or put under review more than 50 rules since taking office, according to a new report by the Center for Progressive Reform.

The compilation includes every rule for which a delay notice was published in the *Federal Register* from Jan. 20 to July 14, 2017. It was compiled by University of Maryland Law professor and CPR member Rena Steinzor and law student Elise Desiderio.

A separate batch of rules delayed by White House Chief of Staff Reince Priebus' mandatory freeze last January was not included in the report. The authors are in the process of vetting those rules and plan to update the chart soon, they said.

After Trump took office, Priebus called for most pending rules to be halted in order to ensure that the president's appointees would have time to review them (*E&E Daily*, Jan. 23).

The report was inspired by the U.S. Court of Appeals for the District of Columbia Circuit's decision in *Clean Air Council v. Pruitt* to reject the Trump administration's decision to delay an Obama-era U.S. EPA rule curbing methane emissions from new oil and gas operations (*Greenwire*, July 3).

"As the D.C. Circuit opinion in Clean Air Council reminds us, in the context of rulemaking, federal agencies are not political entities that can or should turn on a dime in response to an election, even a presidential election," CPR said in a press release.

"Before EPA Administrator Scott Pruitt or any other political appointee can suspend the application of any rule, no matter how much industry opposition it has engendered, they must explain why the issues and information compiled during the rulemaking, or any new related information, justified those decisions," CPR added.

A number of EPA, Interior Department and Energy Department rules were delayed, according to

the compilation.

Some delayed rules are high-profile, like the Waters of the U.S. rule and the Clean Power Plan, which were both placed under review earlier this year (*E&E News PM*, March 1, *Climatewire*, June 12).

Other rules have received less attention, such as two Obama-era rules aimed at cutting landfill methane emissions (*Greenwire*, May 23).

A full list of delayed rules can be found here.

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Panel OKs spending plan; EPA, climate amendments rejected

E&E Daily

By: George Cahlink

Published: July 20, 2017

The House Budget Committee adopted its fiscal 2018 spending and policy blueprint late last evening in a party-line vote, after rejecting Democratic bids to boost environmental priorities.

The budget, approved 22-14, would set overall discretionary funding at $1.13 trillion for the coming year, matching the dollars House appropriators have already been using to craft their fiscal 2018 spending bills in recent weeks.

Additionally, the budget would call for more than $200 billion in cuts in mandatory spending over the next decade and set the framework for a tax overhaul later this year.

"With the election of President Trump, our budget goes from being a vision document to being a governing document that outlines how we build a better America," said House Budget Chairman Diane Black (R-Tenn.) during the daylong markup.

The budget contains so-called reconciliation instructions that require 11 House committees to come up with a deficit-neutral tax proposal and $203 billion in mandatory savings by Oct. 6. The tax and savings plans would then be put into a single bill. And the process of reconciliation allows for passage in the Senate by simple majority.

House leaders have not ruled out moving the budget to the floor before they leave for recess at the end of next week, although it's not clear there are yet enough votes for it to be adopted.

Conservatives have angled for deeper cuts in mandatory programs and guarantees on taxes, while moderates have pushed back against the demands for tougher reductions.

EPA, climate

Budget Committee Democrats offered more than two dozen amendments to alter spending, tax and other policy provisions during the markup that lasted more than 12 hours. All of those proposals failed in party-line votes.

"Democrats believe we should be investing in the American people, our economy, and greater opportunity for all, and we will continue to fight against this irresponsible budget when — or if — it is brought to the House floor," said ranking member John Yarmuth (D-Ky.) after the budget document passed.

Among those Democratic proposals defeated was one that would have halted a 6.6 percent cut for U.S. EPA for the upcoming fiscal year and continued agency funding at the current level of about $8 billion annually.

Rep. Brian Higgins (D-N.Y.), who proposed the amendment, said reductions to EPA will compromise air and water safety to achieve only small savings. He noted that cleaning up waterways, the air and toxic waste sites has an overall positive economic impact.

But Rep. Bruce Westerman (R-Ark.) echoed a GOP budget summary that accused EPA of regulatory overreach. He said the American economy is "under assault from the EPA," citing figures from the conservative Competitive Enterprise Institute, which accuses EPA of costing the economy $1.9 billion annually in regulatory costs.

A familiar partisan fight broke out over climate change, after Rep. Pramila Jayapal (D-Wash.) proposed an amendment that would have provided $500 million annually over the next decade to help states and local communities fight global warming.

She said the proposal was a response to President Trump's decision to withdraw the U.S. from the Paris climate accord. During debate, Jayapal mentioned the recent Group of 20 summit, where the U.S. didn't join its partners on a climate statement.

Budget Committee Republicans criticized the Paris deal for placing the U.S. at a competitive disadvantage against other nations. They said following its tenants would cost the U.S. economy billions of dollars and millions of jobs, a claim accord supporters have rejected.

Rep. Gary Palmer (R-Ala.) said the U.S. should be focused on easing regulations that would make energy production easier from the nation's "abundant" national resources. He also said severe weather patterns, predicted by "climate hysterics," have largely not come to pass.

Other amendments rejected included:

- A proposal that would have required parity between any increases in defense and non-defense spending.

- A proposal that would have eliminated $1.6 billion for building a border wall along the U.S.-Mexico border.
- A proposal that would have boosted spending on science research at both the National Institutes of Health and National Science Foundation.

Democrats did not offer an amendment to try and block a budget provision calling for the House Natural Resources Committee to find $5 billion in reconciliation savings. Environmentalists worry that proposal could lead to the committee proposing drilling in the Arctic National Wildlife Refuge (*see related story*).

Conservative pushback

Signs of potential GOP discord were evident at the markup.

Rep. Mark Sanford (R-S.C.) said he was concerned that the House Republican tax plan would rely on a Border Adjustment Tax, a 20 percent levy on all U.S. imports favored by House leaders. He worried the proposal could spark a trade war and harm his hometown port of Charleston, S.C.

"I'm struggling with that," Sanford said.

He sought to offer an amendment that would have removed the contentious BAT from any tax plan, but Black ruled the proposal out of order. Opposition to the BAT is stronger in the Senate.

Another conservative, Rep. Dave Brat (R-Va.), expressed similar misgivings, saying the budget's reliance on the BAT and a health overhaul to pay for tax reform is risky. He said both proposals might not advance and that would mean far less revenue to pay for broad tax cuts.

Brat, along with other conservatives, have said they want far deeper cuts in mandatory spending that could offset the cost of tax reform, which the budget proposal says must not raise the federal deficit.

While Sanford and Brat both ended up backing the budget, both say their support in committee does not guarantee they will vote for it on the floor.

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House Panel's Approval Of EPA Spending Bill Offers Prelude To Further Talks

Inside EPA

By: Doug Obey

Published: July 19, 2017

The House Appropriations Committee has approved an EPA spending bill for fiscal year 2018 that provides the agency with significantly more than what the Trump administration had sought though the bill's passage offers a prelude to further negotiations among both House and Senate lawmakers over funding levels and policy riders.

During the committee's July 18 markup of the Interior and environment appropriations bill, Democrats rejected the measure in its current form, signaling they plan to fight to further increase funding and remove policy riders.

And Republican appropriators indicated they remain open to adding funding for some programs that enjoy bipartisan support -- assuming they can win increased funding levels for EPA and other agencies during upcoming budget discussions.

The committee voted 30-21 -- along party lines -- to send the bill to the House floor, during a markup that highlighted questions over the ultimate fate of the bill in the House and in negotiations with the Senate and White House over final spending levels for fiscal year 2018.

"This funding level will ensure the agency is able to fulfill its core duties while streamlining the agency and reshaping its workforce," said Appropriations Committee Chairman Rodney Frelinghuysen (R-NJ).

But Rep. Ken Calvert (R-CA), chairman of the Interior appropriations subcommittee, said several times that he remained hopeful that a pending broader budget deal on spending levels across the federal government might free up money to increase spending for specific, popular programs.

The bill approved by the committee provides $7.5 billion for EPA, a 6.5 percent decrease from FY17. While the bill cuts the agency less than the massive 31 percent cut proposed by the Trump administration, the reduction of $528 million from FY17 levels is drawing harsh fire from Democrats after years of budget decreases for the agency.

And it comes amid report that EPA's spending bill is not expected to be part of an initial group of spending bills, known as a "minibus," scheduled for possible House approval next week.

Frelinghuysen during his remarks praised parts of the bill, including funding for Superfund site cleanups, as well as an array of policy riders he said reflect the need to "cut job killing red tape."

And Calvert in his opening remarks noted that the bill supports efforts by the Trump administration to "begin reshaping the workforce at EPA."

But Rep. Nita Lowey (D-NY), the committee's ranking Democrat, underscored the minority's hostility to the legislation, asserting the bill would "cripple the agency" and that it risks a government shutdown by spurning Democratic lawmakers.

"Democrats cannot support a bill that threatens the health of our environment," she said.

And Rep. Betty McCollum (D-MN), the ranking Democrat on the Interior subcommittee, likewise called the legislation a "partisan bill that will not become law in its current form."

She cited concerns over the proposed cuts on an agency that already has 2000 fewer staff than in 2010.

GOP Disunity

The dynamic offers additional evidence that Democrats will seek to exploit perennial disunity within the Republican caucus on spending and other legislation that has historically left GOP leaders dependent on at least some level of Democratic support to approve spending bills.

Those divisions may boost Democrats' leverage to demand further concessions in the legislation -- including removal of at least some riders or addition of additional funding in exchange for providing needed votes.

The proceeding comes weeks after a critical mass of Senate Democrats already pledged in a letter to Senate appropriators to block inclusion of policy riders in spending bills. But meeting the demands of Democrats also runs counter to pressure from conservatives for even deeper cuts to EPA than in the current House bill.

A preview of likely demands surfaced as Democrats during the July 18 markup demanded a roll call vote on several amendments, including an unsuccessful amendment from McCollum seeking to strip 16 policy riders from the bill.

A few of the most high-profile riders include a delay of EPA's ozone standard, language authorizing quick withdrawal of the Waters of the U.S. rule, and language blocking financial

assurances requirements under Superfund.

At the same time, a second, and more collegial dynamic was also evident at the hearing, with Republican appropriators open to sweetening the bill by adding additional money for popular programs that appeal to members of both parties.

"I am going to work with you, to get to a better place at the end of this process," Calvert said, for example, in response to an amendment subsequently withdrawn by Rep. Jeff Fortenberry (R-NE) seeking more money for the land and water conservation fund.

Calvert similarly in response to a proposed amendment from Rep. Marcy Kaptur (D-OH) -- seeking to add $16 million to EPA's safe and sustainable water resources research account -- said he would "like to revisit" the issue if the pending budget deal is reached.

And the route to similar discussions appeared open in the wake of an amendment from Rep. David Price (D-NC) to bring EPA research funding in the bill back up to FY17 levels; a proposal from Henry Cuellar (D-TX) to boost funding in the bill for border environment programs; and a proposed amendment from Kaptur and Rep. Debbie Wasserman Schultz (D-FL) to restore $250 million in funding to the clean water state revolving fund.

Still, the committee rejected numerous Democratic amendments at the markup either by voice or recorded vote. They included an amendment from Rep. Mike Quigley (D-IL), rejected 31-29, that would have explicitly barred any use of funds to close EPA regional offices; an amendment from Rep. Matt Cartwright (D-PA) that would have removed bill language delaying implementation of the 2015 ozone standard; another Cartwright amendment, rejected 21-29, that would have instructed agencies to prepare for climate impacts.

After a discussion with Calvert, McCollum withdrew an amendment that would have codified report language imposing restrictions on reprogramming of funds at EPA, the Department of Interior and other agencies. And Rep. Chellie Pingree (D-ME) withdrew a proposed change to report language accompanying the bill that she said would admonish Administrator Scott Pruitt to follow the Administrative Procedure Act, citing the recent federal court rejection of his effort to delay an oil and gas methane rule by 90 days.

The final approval of the legislation late July 18 came after approval of a manager's amendment that makes “noncontroversial” changes to the legislation, as well as the addition of amendments including: language modifying bill language requiring use of domestic iron and steel in water infrastructure projects, and language limiting funds for approval of turbines less than 24 nautical miles from Maryland's shore.

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Many staffers plan to weather Trump tempest

Climatewire

By: Niina Heikkinen and Robin Bravender

Published: July 20, 2017

U.S. EPA employees aren't rushing for the exits, despite jitters about the Trump administration's direction on the environment and its efforts to give cash incentives to staffers who leave their jobs.

Some agency employees have left, citing opposition to President Trump's policies. But most EPA staffers are staying put. The agency's workforce grew during the first several months of the Trump administration, and current employees suspect there won't be many takers for voluntary buyouts and early retirement offers.

"It's rare" to see employees departing, said one EPA staffer. "Folks are dedicated to the mission and really see that even if your wishes or your policy stance don't align with the administration, there's still important work to be done."

Even those who oppose Trump's plans to roll back rules and slash EPA's budget are hunkering down for a variety of reasons, according to current staffers. Some are waiting out the

administration, while others want to fight policies they disagree with from the inside. Some worry that they won't be able to find jobs and can't afford to abandon their salaries, even if they're eligible for the buyout packages.

John O'Grady, an EPA union leader based in the agency's Chicago office, said employees are still waiting to see how Trump's policies impact them.

"Really the new administration hasn't come and done dastardly things yet to EPA," he said. "They proposed a horrible budget and horrible staffing figures, but it's being mitigated somewhat by Congress."

He added, "I think people have some hopes about the 2018 elections changing at least the makeup in Congress."

Gay MacGregor is one ex-EPA employee who left because of the Trump administration. The former senior policy adviser at the agency's transportation office in Ann Arbor, Mich., had vowed last year to leave if Trump won the White House. She was close to retirement but had been planning to stay for one more year.

"I told my boss last summer when [Trump] won the primary I would leave if he won, because I thought I could do more good from the outside because people inside would be more restricted from talking, either by edict or because they felt it was too risky," MacGregor said.

Overall, EPA's staff grew between December 2016 and March 2017, according to the most recent data from the Office of Personnel Management. EPA had 15,707 employees nationwide in December and 15,797 in March.

Now the administration is looking to cut about 1,200 staffers by September through buyouts. But employees and union officials don't think there will be many takers.

'Another job?'

There is the question of the incentive itself. Employees who accept the buyout can't get more than $25,000. That value hasn't changed recently to reflect inflation, so it isn't as attractive as it might have been a number of years ago.

"The people that are ready to retire right now or within three months would be happy to accept a check from EPA as an enticement or a bonus," O'Grady said. But the $25,000 maximum payout isn't enough for most employees, he said.

And the Trump environmental agenda will have a "cascading effect" in states and corporations, O'Grady said. So people working in the environmental field can't expect to find regulatory jobs in other areas. "Where are you going to go to find another job?"

For those who may want to leave early, they're facing an "incredibly short" window of time to make up their minds, said Nicole Cantello, vice president of labor relations for the nonprofessional unit at the American Federation of Government Employees (AFGE) Local 704.

EPA employees did not know until the buyout offer was finalized which positions would be eligible for early retirement and buyouts. The Office of Personnel Management and the Office of Management and Budget approved the agency's request for early retirements and buyouts on July 10.

Employees who are eligible were notified by their program or regional manager on July 13, according to an internal memo obtained by E&E News.

The timing of the announcement means that people had a matter of days to decide whether they will leave the agency, said Cantello.

"It's a huge decision that they have to make. There are a lot of financial decisions and soul-

searching," said Cantello. "The people attracted to federal employment like consistency. These are not risk-takers. To have to make this decision goes against the grain.

"I think people feel under the gun, these people love their jobs," Cantello added.

While she had heard of some staff being interested in early retirement, that's not the case for buyouts among younger workers.

There could be layoffs if the administration doesn't achieve its workforce reduction goals.

Diane Lynne, president of the EPA union National Treasury Employees Union Chapter 280, said her group's goal is to prevent "involuntary separations" for employees.

The White House's draft budget released earlier this year proposed cutting EPA's staff by 3,200 employees in fiscal 2018, although cuts that steep are unlikely to clear Congress.

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Philly EPA region could take major hit in buyout plan

The Philadelphia Inquirer

By: Frank Kummer

Published: July 20, 2017

The U.S. Environmental Protection Agency's Region 3, which includes a large Philadelphia office, could lose the most employees of the agency's 10 regional operations through recently announced buyout offers, according to figures obtained by the Inquirer and Daily News.

Region 3 covers Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and Washington, D.C. But the region's biggest office by far is in Philadelphia.

The EPA is targeting a maximum of 159 workers for buyouts and early retirements in Region 3, or nearly one-fifth of its approximately 795 employees, according to the numbers supplied by union officials representing EPA employees. Of that number, 136 would come from the Philadelphia office. Buyouts, which also are being offered to non-union employees, are voluntary, so it's not clear just how much the effort will reduce staff.

EPA officials say the buyouts are part of the Trump administration's general plan to shrink government, but there is no hard minimum or maximum number. Mike Flynn, the EPA's acting deputy administrator, sent an email to employees Wednesday explaining that the U.S. Office of Personnel Management and the U.S. Office of Management and Budget approved the offer for early retirements and buyouts. But he stressed that the decision to accept is voluntary and that the offer closes Tuesday.

"This is a very personal decision and employees are urged to carefully consider the information provided and their personal situation prior to deciding," Flynn said.

Among the biggest buyout targets are scientists, such as environmental protection specialists, environmental engineers, and general physical scientists. But lawyers, secretaries, and other job classifications are also on the list.

"I found out over the past week," said Gary Morton, president of American Federation of Government Employees Local 3631, the union representing Region 3 employees. "It's worse than expected."

Morton said the impact of the buyout is difficult to gauge since employees are still mulling their options and the agency is restructuring in many areas. The most senior employees, those with 30 years of service, can get up to $25,000 as part of the buyout.

"This tells me the agency is looking to retire its higher-graded, most knowledgeable employees and replace them with new employees," Morton said.

Overall, the EPA is looking to buy out more than 1,200 of its 15,000 employees. At its Washington headquarters, the Office of Research and Development — the agency's main scientific research arm — could see the biggest buyout, with offers going to 183 people.

The buyouts, part of the 2017 fiscal year, are separate from any proposed budget cuts to the agency for the 2018 fiscal year, which starts Oct. 1. This week, the House Appropriations Committee approved a bill that would cut the EPA's budget to $7.5 billion for 2018 — about $500 million less than President Trump's original proposal calling for a $2.6 billion cut. The bill includes money to pay for buyouts.

Morton said the buyouts could both eliminate the most experienced talent and force state governments — also facing budget cuts — to take on more environmental protection duties.

Neil Shader, a spokesman for the Pennsylvania Department of Environmental Protection, said it's too early to say how buyouts would impact the state.

John O'Grady, the AFGE's national president, said his bottom line is, "Will the U.S. EPA still be able to protect the environment?"

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Democrats live-tweet 'secret' Arctic trip

E&E Daily

By: Arianna Skibell

Published: July 20, 2017

House Science, Space and Technology Committee Democrats took to Twitter earlier this year to publicize a trip to the melting Arctic, dispelling the notion that it was a clandestine journey.

Chairman Lamar Smith (R-Texas), who has questioned the prevailing science on global warming, has been less willing to sound off about the travels.

A May 8 tweet from the panel Democrats' account says, "Follow along this week as @HouseScience and @SciCmteDems visit the Arctic Circle to learn more about the research being conducted there!"

A May 9 tweet expressed excitement to learn about "cutting edge climate research" being conducted by federal scientists in Barrow, Alaska.

Last week, Buzzfeed News reported on the trip, calling it "secret." Since then, Smith has not responded to E&E News' requests for comments (*E&E Daily*, July 18).

But Kristina Baum, the chairman's outgoing communications chief, was quick to dispel the notion that the May trip was secret.

"So secret that @SciCmteDems live tweeted the trip!" Baum replied to ProPublica reporter Andy Revkin's tweet about the story.

House Democrats posted pictures from the six-day Arctic adventure along with factoids and appreciations. "Thank you to the local leaders of Utqiagvik for sharing about your community this morning!" a May 9 tweet reads.

A Democratic aide confirmed that the junket was not a secret. "We have never described this trip as secret," the aide said in an email to E&E News. "I'm unsure why the scientists in the Buzzfeed article were asked not to talk about the trip or why it's being described as secret."

Buzzfeed reported that scientists who met with lawmakers were asked not to disclose information about it.

The Arctic Circle is considered to be the front lines for climate change impacts. It's seen rapid sea ice loss, melting glaciers and thawing permafrost.

@SciCmteDems/Twitter

That Smith would lead an oversight trip to federal facilities conducting research in the area has generated interest among people who follow the issue (*E&E Daily*, July 18).

Press secretary Thea McDonald said her boss invited Democrats to join him on the trip to conduct oversight and to support agencies within the committee's jurisdiction.

"The Chairman is grateful for the gracious hosts, and was pleased with the interest from Members who participated," she told E&E News in an email.

In a later email, McDonald said the trip "was a valuable learning experience for Members on both sides of the aisle, and the information they gathered will continue to shape the committee's oversight conversations."

She did not respond to requests about whether the trip had impacted Smith's views on climate science.

Also in May, Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) led a bipartisan group of lawmakers on a trip to several Arctic sites.

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Surprising scientists, 2017 could be among warmest ever

Climatewire

By: Scott Waldman

Published: July 20, 2017

This year is on track to be the second-hottest on record, surprising climate scientists who thought natural weather patterns could break a multiyear trend of record-breaking temperature increases.

Global temperatures this year have been 1.64 degrees Fahrenheit above the 20th-century average of 56.3 F, according to NOAA. That's second only to last year, by a difference of about 0.29 F. Last year is the warmest on record.

Each of the last three years have broken global high temperatures records. But temperatures since January have caught some researchers off guard, because they expected that the tapering off of an El Niño period, which typically raises temperatures, would hold down global heat

levels. Instead, this year is on pace to top every record except the one set in 2016, researchers found. At this point in the year, 2015 was the third-hottest on record. It ended up breaking every heat record — until being topped by 2016.

There is a greater than 57 percent chance that 2017 will turn out to be the second-hottest year on record, according to Gavin Schmidt, director of NASA's Goddard Institute for Space Studies. There are greater odds that 2017 will be one of the top three hottest years ever recorded.

Global carbon emissions have slowed recently, but they continue to build in the atmosphere at a record pace, because the gas can be present for centuries. That drives warming. Researchers released the latest measurement of atmospheric CO2 yesterday; it reached 406.56 parts per million in June at the Mauna Loa Observatory in Hawaii.

High temperatures, like those occurring now, are linked to rising CO2 levels, said Pieter Tans, lead scientist at NOAA's Global Greenhouse Gas Reference Network. However, he cautioned against attributing a single year's temperatures to CO2 growth.

"The annual increase is still above 2 ppm per year. I think that is directly linked to the fact that CO2 emissions from fossil fuel burning and cement production are also at a record high. That is directly linked," he said. "Now, the temperature increase is also directly linked to high CO2, but maybe not on a year-to-year basis."

The observatory in Hawaii has recorded five consecutive years of CO2 increases of at least 2 ppm, an unprecedented rate of growth, according to NOAA. Since 1960, CO2 has increased more than 30 percent, or 100 ppm. About 150 years ago, before the age of industrialization, atmospheric CO2 was 280 ppm. It had been at that level for about 10,000 years.

Sea ice in both the Arctic and Antarctic are also near record lows. Sea ice cover in Antarctica is now 6.3 percent below average from 1981 to 2010. That's the second-lowest ever observed for this time of year over 40 years of record-keeping. In the Arctic, sea ice cover is 7.5 percent below average, the sixth-smallest ever recorded.

Heat spiked in spots across the globe. Africa saw its hottest June ever recorded. Europe and South America were much warmer than average. The American Southwest saw a heat wave break multiple temperature records, as well. Eastern Russia was an anomaly, with cooler-than-average conditions, even as the rest of the country was much warmer than average.

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Is 'Game of Thrones' a parable about climate change?

Greenwire

By: Arianna Skibell

Published: July 19, 2017

The beloved and bloody HBO series "Game of Thrones" is back for a new season, and some are saying the message about climate change is undeniable.

Here's the idea: The noble houses of Westeros have been so focused on playing politics — and killing each other to gain power — that they've failed to recognize a growing threat, the White Walkers, who are named for the snow and ice that accompany them.

White Walkers and their zombie army want to wipe out humanity with no regard for nation or noble house. But instead of uniting to fight the undead, the houses obsess over political disagreements and power struggles while ignoring the White Walkers or blatantly denying their existence.

Recognition that White Walkers are real is growing in the seven kingdoms. Now the noble houses must unite around the common goal to defeat the White Walkers or face extinction. Season seven will likely test humanity's coordination.

Replace Westeros with global leaders and White Walkers with climate change, and that's the metaphor.

David Doniger, director of the Natural Resources Defense Council's climate program, says the climate message is clear.

"They had a stable political system, if you remember way back in the first episode, and now with everyone looking after their own political interest, no one is paying attention to the fact that winter is coming," he said.

"Winter is coming" is the motto of House Stark, the keepers of the North and the closest to the great wall that separates civilization from wildlings and White Walkers. The expression is meant as a warning and alludes to the death and destruction winter could bring.

"I'm not going to belabor it, but there seems to be some degree of denial that winter is coming — at a minimum, ignoring it and pretending that this relatively benign weather system that they've been enjoying will go on forever," Doniger said.

While depleting natural resources, he said, the United States — and Westeros — are losing much more.

"We're eating up our political seed corn," he said. "We're actually depleting the sum of the unwritten things that make the country and political system work: a sense of cooperation, a willingness to compromise, attention to fact, respect for science, the willingness to plan for the future.

"That's what 'Game of Thrones' seems to be about. Whoever wins will become the master of a highly impoverished kingdom."

In 2015, political scientist Charli Carpenter published a paper in *Foreign Affairs* arguing that

"Game of Thrones" is about how the drive to meet short-term goals distracts leaders from addressing larger questions of human survival.

Vox added climate change to the mix, and then scores of online publications picked up the idea, including *Grist*, *ThinkProgress*, *Vogue* and *Esquire*.

Vanity Fair ran a piece this month linking characters in the show to real-life climate players, in which the Mother of Dragons Daenerys Targaryen is a stand-in for German Chancellor Angela Merkel, Margaery Tyrell is Ivanka Trump and Cersei Lannister is the Koch brothers.

Scientists have picked up on the theme. Tom McGovern, an archaeologist who studies climate change, said a colleague was awarded a grant for a project proposal titled "Winter is Coming."

In the show, doom comes in the form of endless winter. In the real world, the climate is warming, which, it turns out, complicates the job of the show's producers.

Scenes showing the wasteland beyond the wall are shot in Iceland, where glaciers are melting, said Kit Harington, the actor who plays Jon Snow, the king in the North.

"We go out there this year, and the glacier that [we] filmed on four years ago, I saw it and it has shrunk. I saw climate change and global warming with my own eyes, and it is terrifying," Harington told *Time*.

Warmer ocean means trouble

Brendan Kelly, the executive director of the Study of Environmental Arctic Change at the International Arctic Research Center, said a warming Arctic could have far greater implications for the earth than making winter scenes hard to film.

Arctic ice acts as a giant mirror that covers a huge portion of polar regions and reflects most of the sun's energy away from the earth, he said. When warming temperatures melt sea ice into sea water, the sun's energy is absorbed, which causes more warming (*Climatewire*, March 2).

"On a local scale, a change in sea ice impacts people who hunt and fish on sea ice or industries who use ice as a platform for oil exploration," Kelly said.

Less ice in summer lets wind whip up larger waves that slam the shoreline more frequently, causing erosion.

"As the glaciers and ice sheets melt and raise sea level even more, that will have a greater impact on coastal flooding and erosion," he said.

The consequence is not only a warmer ocean, he said, but also a warmer atmosphere above the Arctic Ocean. As the ocean temperature and the atmospheric temperature become more similar, the jet stream slows down (*Greenwire*, March 27).

"The jet stream becomes much wavier, and those waves are associated with extreme weather events," Kelly said.

And as the ice melts, carbon stored in permafrost is released, exacerbating greenhouse gas emissions and shifting how water flows or doesn't flow, which can change ecosystems (*Climatewire*, March 30).

In other words: Summer is coming.

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Can Duke's Edwardsport turn tide for

clean coal post-Kemper?

Energywire

By: Jeffrey Tomich

Published: July 20, 2017

When Duke Energy Corp. proposed the Edwardsport plant in southwest Indiana in 2006, the project was billed as a "technological marvel" that would help usher in a new era of clean coal — a pillar of Duke's plan to be a climate change leader under then-CEO Jim Rogers.

At a time when Congress was weighing proposals to rein in greenhouse gas emissions that would inevitably squeeze coal states like Indiana, Edwardsport represented a way to realize the best of both worlds.

The 618-megawatt plant would let the Hoosier State continue to tap its massive coal reserves for electricity, spawning jobs and tax revenue. Meanwhile, the technology offered a way to capture carbon dioxide emissions and store them deep underground or use them for enhanced oil recovery.

Fast-forward a decade: The coal gasification plant suffered delays and came with a $3.5 billion price tag — almost double its original $1.9 billion estimate. An ethics scandal led to the firing of the state's top utility regulator and the resignation of Duke's No. 2 executive. And the prospect of installing carbon-capture equipment was tossed aside before the plant was complete.

Unlike most coal-fueled power plants, where pulverized coal is burned to produce steam, Edwardsport is an integrated gasification combined cycle (IGCC) plant, where coal is converted to synthesis gas pre-combustion, enabling much of the air pollution to be stripped out.

While much cleaner than conventional coal, an IGCC plant's complex systems are also what turbocharged Edwardsport's cost and the challenge of keeping it running smoothly — a reality

the plant's operators are still grappling with.

"Edwardsport is a complex and highly integrated plant and it will take time to determine the best approach to maintenance," plant manager Garth Woodcox said in testimony filed with the Indiana Utility Regulatory Commission.

The plant is one of two highly scrutinized IGCC projects that were supposed to pave the way for the next generation of cleaner coal-fired generating plants that would help the U.S., and indeed the world, continue to supply cheap electricity while addressing climate change.

The other is Southern Co.'s $7.5 billion Kemper project in Mississippi, where frustrated state regulators last month directed the utility to operate the plant on natural gas. Southern responded by deciding to pull the plug on coal gasification and systems to capture CO2 (*Energywire*, July 7).

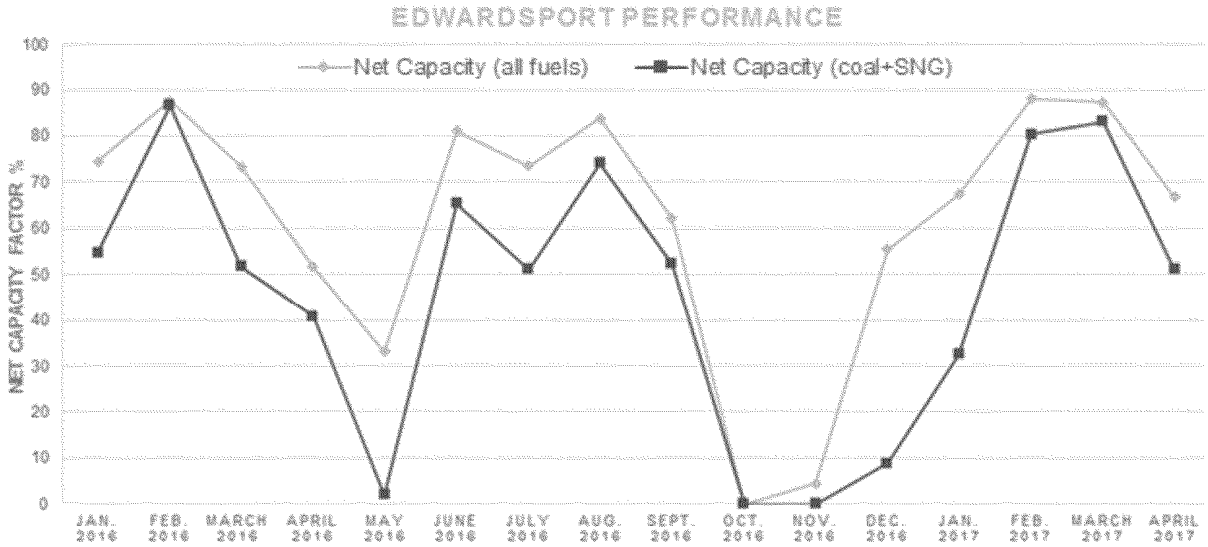
While defenders of next-generation coal plants are quick to draw distinctions between the plants, they are no doubt linked in key ways, including the fact that both received more than $100 million in federal tax credits as part of a $1 billion 2006 George W. Bush administration initiative to advance "clean coal."

Like Kemper, the Edwardsport plant will also forever be characterized by being behind schedule and over budget — a fact Duke blamed on rocketing prices for steel, concrete and other commodities during construction.

Critics view it through a different lens.

"The only reason Edwardsport isn't Kemper right now is because Edwardsport abandoned CCS," said Kerwin Olson, executive director of the Citizens Action Coalition, an environmental and consumer advocacy group. "Instead, we just have another coal plant. It's never going to perform to the level Duke said it was going to perform."

Costly for coal



The Edwardsport IGCC plant has been up and down as Duke Energy dealt with longer-than-expected maintenance outages and other unforeseen repairs. But the plant ran at more than 80 percent of capacity on gasified coal for two consecutive months earlier this year. Data: Indiana Utility Regulatory Commission filings

While Edwardsport is indeed among the cleanest coal plants in the nation in terms of regulated pollutants such as sulfur dioxide, nitrogen oxides and mercury, it's also among the most expensive relative to the amount of energy it produces.

A Duke Indiana residential customer who uses an average of 1,065 kilowatt-hours a month now pays $15.44 for Edwardsport, according to the coalition. That amount would rise 30 cents if regulators approve an increase sought by the utility under a 2016 settlement (*Energywire*, Jan. 19, 2016).

While Edwardsport's operations improved in early 2017 and the plant achieved new highs in net capacity factor (a key metric of performance that measures a plant's actual output versus maximum output), the plant has struggled to run consistently at high levels since being declared commercially available in June 2013.

Duke executives declined to be interviewed. But in testimony and operational data submitted to regulators as part of a request to recover additional operating and maintenance costs and capital expenditures, utility officials shed light on some of the challenges.

The filings described how planned maintenance outages over the past 21 months dragged on longer than expected, complicated by unanticipated problems such as leaking pipes and corrosion.

According to Duke, each of the plant's two coal gasifiers were taken offline for about two months in the spring of 2015. The gasifiers were again down for much of the fall of that year for replacement of refractory bricks and to resolve other "emergent issues."

Both gasifiers were taken down again for planned maintenance in September. The outage was supposed to last through the first week of November. Instead, the units were offline most of the rest of the year because of unanticipated leaks and other "relatively minor issues." One of the gasifiers returned Dec. 21; the other didn't come online until Jan. 11.

Not surprisingly, the utility set a high bar for Edwardsport a decade ago when it sought the blessing of regulators to move forward with the project — and to begin collecting costs from ratepayers.

Modeling by Duke indicated the plant would operate at an 82 percent capacity factor and would be "consistently among the first units economically committed and dispatched on the Duke Energy Indiana system due to its efficient heat rate and low environmental emissions."

So far, that hasn't turned out to be the case — at least consistently.

Over the 16 months from January 2016 through April, the net capacity factor at Edwardsport topped 80 percent five times, but it achieved that level only three times running on coal. (The plant can also operate on natural gas.) Including all fuels, the average capacity factor was about 57 percent last year.

While that's in line with — if not marginally better than — the average U.S. coal and combined cycle natural gas plant, according to data from the U.S. Energy Information Administration, the performance has been lumpy and nowhere near the level forecast by Duke a decade ago.

'It was foreseeable'

In many ways, the themes at issue in the Edwardsport case a decade ago are just as relevant now as the electric industry awaits the Energy Department's grid study on the importance of baseload power.

At the time Edwardsport was proposed, Duke said its demand forecast showed the utility needed to add 600 MW of baseload power by 2011 to head off a potential shortfall against its reserve margin.

Synapse Energy Economics, a Cambridge, Mass.-based consulting firm hired by Citizens Action Coalition and other environmental groups, filed detailed testimony that showed otherwise.

Bruce Biewald, Synapse's chief executive, testified that Duke's cost estimate and the plant's anticipated startup date were overly optimistic. He said that the utility failed to adequately analyze risks and costs, and that a mix of energy efficiency and wind — even natural gas — would be a better deal for ratepayers.

In testimony, Biewald said an alternative portfolio of wind and efficiency would have saved Duke $1.9 billion through 2030. In retrospect, the savings would have been far greater had the utility and regulators chosen a different path, he said in a telephone interview this week.

"It was foreseeable," he said. "We saw it coming, and I think any reasonable, objective person that looked at the facts and the evidence saw it coming."

Biewald, who has been involved in resource planning processes at state commissions across the country, sees the Edwardsport decision as a failure of utility forecasting, of risk analysis and of regulatory scrutiny.

"In this case, the system really failed," he said.

It's also a cautionary tale for utilities that want to set out to build the next central station mega-project in a fast-evolving energy landscape where energy efficiency and renewables have often proved cheaper.

"The idea that we need baseload power is indeed bogus," he said. "What we need is reliable power and a reasonable price and that complies with environmental regulations."

Not surprisingly, groups that fought to defeat Edwardsport don't think the plant will ever live up to Duke's promises. But project supporters hold out hope.

Realizing that vision of climate leadership described by Rogers may rest on whether carbon capture and sequestration ever becomes a reality at Edwardsport.

U.S. EPA data show the Edwardsport plant emitted the equivalent of 2.6 million tons of CO2 in 2015, the most recent year for which data are available. In absolute terms, other Indiana coal plants emit more greenhouse gases.

But a report for the Citizens Action Coalition showed that from January 2013 to September 2014, the plant emitted more CO2 per unit of energy than any other plant in Duke's Indiana fleet.

To this day, Olson questions how Duke seriously intended to pursue carbon capture and sequestration at Edwardsport. What he's more certain of is that chances of CCS at the plant at

some point in the future are slim to none.

"It's not going to happen, whether it's the technology, geology or economics," Olson said.

In fact, visible efforts to pursue CCS at Edwardsport came to an abrupt halt in January 2013, about six months before the plant began operation.

Incentives lag

CCS wasn't approved by regulators as part of the certificate granted to Duke to build the plant despite a recommendation that equipment be installed to capture and store 15 percent to 20 percent of Edwardsport's CO2 emissions.

A decade ago, the Indiana Utility Regulatory Commission agreed with other parties that some form of carbon regulation was likely in the future, and required Duke to return in six months with a preliminary engineering and design study.

But in 2013, the commission rejected Duke's request for an additional $42 million to move to the next phase of its study on carbon sequestration and enhanced oil recovery options related to Edwardsport.

In its order, the commission cited the many "uncertainties related to the long-term management of CO2" and the fact that potential EPA regulations concerning existing power plants are "speculative in terms of both timing and result."

The commission, however, encouraged Duke to continue studies on carbon sequestration and return later with an alternative or "other appropriate" regulatory treatment.

John Thompson, director of the Fossil Transition Project for Clean Air Task Force, testified in support of the Edwardsport plant in 2007 and remains hopeful today that Duke will pursue CCS.

"The challenge with carbon capture right now is that it doesn't have the same incentives as renewables," he said. "There's not an incentive for capturing carbon. There's not a financial incentive, and there's not a regulatory incentive."

Thompson is quick to cite the early success of NRG Energy Inc.'s Petra Nova project in Texas and sees potential for CCS at other existing coal plants in a Senate bill proposed by a bipartisan coalition of coal-state legislators.

The "Furthering Carbon Capture, Utilization, Technology, Underground Storage and Reduced Emissions (FUTURE) Act" introduced last week would expand tax credits for stored carbon dioxide trapped from industrial facilities and power plants.

The bill would boost credits from $10 and $20 per metric ton of CO2 captured for use in enhanced oil recovery and for storage in geologic formations to $35 and $50 a ton, respectively (*E&E Daily*, July 13).

Thompson said CCS projects in Texas' Permian Basin would probably be the first to benefit from the federal legislation, followed by projects along the Gulf Coast. Beyond that, the Midwest could be in play.

"At that point, plants like Edwardsport might look sort of attractive," he said.

A longtime advocate for clean coal research and development and broader deployment of next-generation coal technology, Thompson said Kemper and Edwardsport illustrate a need for the costs and risks of such first-mover projects to be spread more broadly and not simply piled on the backs of utility ratepayers and shareholders.

"What we need is early adopter rewards," he said. "But what we have is pioneer penalties."

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EPA to Revisit Pollution Control Plan for Utah Coal Plants

Associated Press

Published: July 19, 2017

SALT LAKE CITY (AP) — The head of the U.S. Environmental Protection Agency says federal officials will reconsider a 2016 plan requiring pollution controls at two of Utah's oldest coal-fired power plants.

EPA Administrator Scott Pruitt made the announcement Tuesday while visiting Salt Lake City and meeting with Republican Gov. Gary Herbert.

President Barack Obama's administration issued the plan last year requiring the plants to put in new equipment to reduce nitrogen oxide emissions causing haze at nearby national parks in eastern Utah.

Environmental group say the controls are needed to cut emissions but Utah and Rocky Mountain Power sued the EPA to stop the plan, saying utility customers would bear the $700 million cost of the changes and a state plan to reduce haze was already working.

Pruitt says he's going to let Utah study the pollution's impacts and let the state have a voice.

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Evidence Thin That Mountaintop Mining

Harms Health: Coal Groups

Bloomberg BNA

By: Stephen Lee

Published: July 20, 2017

Coal industry officials are challenging the science behind an ongoing project, started by the Obama administration, to study the link between mountaintop removal mining and human health.

Namely, they say the evidence is too thin to show a definitive connection.

"Correlation does not mean causation," Jason Bostic, vice president of the West Virginia Coal Association, told Bloomberg BNA. He said the scientific uncertainty points to a fundamental problem with the available research: the difficulty of separating specific causes from specific effects.

Environmental groups like EarthJustice and Appalachian Mountain Advocates disagree, saying enough is already known about mountaintop removal mining to outlaw the practice or at least more strictly regulate its impacts on air and water.

On July 11, a National Academy of Sciences panel heard evidence from researchers broadly connecting mountaintop removal mining to higher rates of heart disease, cardiovascular disease, stroke, and death. In mountaintop removal, coal seams running through the upper portion of a mountain are mined by removing all the rock or soil on top of them.

However, the researchers who presented their work also repeatedly stressed that the data are still too thin and that more study is needed. The panel's $1 million funding was provided by the Office of Surface Mining Reclamation and Enforcement toward the end of the Obama administration, and its report is expected in March 2019.

Correlation and Causation

Luke Popovich, a spokesman for the National Mining Association, agreed the science on human health impacts remains uncertain.

"From what we learned yesterday, it's plain to us that there remain many unanswered questions surrounding the issue," Popovich told Bloomberg BNA the day after the NAS meeting.

Neither Alpha Natural Resources nor its spinoff, Contura Energy, responded to Bloomberg BNA interview requests about the National Academies study. Alpha has been the primary target of mountaintop removal mining opponents.

Several other companies contacted by Bloomberg BNA did not comment on the study.

Precautionary Principle

Adam Finkel, the executive director of the University of Pennsylvania's Penn Program on Regulation, said the precautionary principle on regulating requires that "when there is scientific uncertainty about the extent of harm or even the possibility of harm, you shouldn't let the fact of that uncertainty delay action."

Definitive findings can take years to gather, Finkel said, in part, because researchers have to wait for latent diseases to manifest themselves. In the meantime, enough facts already have been established to trigger tighter regulation of mountaintop removal mining, he said.

"I'm not sure we need epidemiology to know there's something going on here," he told Bloomberg BNA.

Mark Squillace, a law professor at the University of Colorado, agreed, telling Bloomberg BNA that the anecdotal evidence "is pretty overwhelming that people who live in these coal fields are likely to suffer ill health effects. At a minimum, we need to try to understand the causal links better."

That view was underscored at the July 11 meeting by Bob Kincaid, president of the anti-mountaintop removal group Coal River Mountain Watch of Naoma, W.Va. Kincaid, the only member of the public who rose to speak before the panel, said people are already sick and dying throughout Appalachia because of mining.

"For us to do nothing but call for more research is unethical," Kincaid told the committee. "I suggest you get married to that notion."

Teasing Out Causes, Effects

Bostic dismissed those claims, saying the precautionary principle would also sweep up many other types of behavior.

"I'm willing to bet you all those people who got sick also have TV, cell phones, and probably eat peanut butter," he said, listing other things that could cause illness.

Paul Locke, the chair of the panel, told Bloomberg BNA that researchers often have difficulty teasing out specific causes and specific effects.

"It's hard to discriminate impacts," said Locke, a public health professor at Johns Hopkins University's Bloomberg School of Public Health. "Our committee won't be able to unpack those all."

Rather, Locke said, the group's charter is to identify the main types of coal deposits and "assess the rigor and quality" of already published medical studies on human health effects.

Cardiovascular Disease, Lung Cancer

Travis Knuckles, an assistant professor at the West Virginia University School of Public Health, told the panel that he and his colleagues had found that exposure to particulate matter from mountaintop removal mine sites could inhibit blood vessels' ability to dilate, leading to cardiovascular disease.

Similarly, W. Jay Christian, an assistant professor at the University of Kentucky College of Public Health, told the committee that the rates of lung cancer in Appalachia are "higher than we would expect."

But Knuckles also said "confounding exposures," such as how close people are to roadways and even fires and lawnmowers, could be distorting the data, and Christian said the data on lung cancer is "too meager" for firm conclusions to be drawn.

Too Little, Too Late?

Joe Lovett, executive director of Appalachian Mountain Advocates, said the National Academies' project is at least five years too late because far fewer mountaintop removal mines are in operation today. The Energy Information Administration says coal production using mountaintop removal fell by 62 percent from 2008 to 2015.

"They should've done something about it years ago, when it was a bigger problem than it is now," Lovett said.

The panel will meet again Aug. 22-24 in Kentucky.

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Obscure Coal CEO Rains Money on Trump While Outflanking Rivals

Bloomberg

By: Tim Loh

Published: July 19, 2017

Coal mogul Joseph Craft was at a Department of Energy conference last month where everyone was reveling in President Donald Trump's call to achieve "global energy dominance."

A big-oil chief wanted more exports of America's oil and natural gas riches. A union leader called for more investments in energy infrastructure. And Craft? More coal, of course.

"We have been the backbone of the economy" the 66-year-old chief executive officer of Alliance Resource Partners LP declared. "Obviously, we can't have 'Energy Dominance' without coal."

That's Craft's bet, anyway. But he's got some credibility to talk up his book. He steered Alliance Resource through the teeth of the industry's worst downturn in generations and came out largely unscathed. For 17 straight years, Alliance has turned an annual profit and in 2016, when Peabody Energy Corp. and Arch Coal Inc. were mired in bankruptcy, the nation's sixth biggest coal miner was making more money than any of its U.S. rivals.

Little known to the general public, the camera-shy Craft is now being thrust into the spotlight. In January, he donated $1 million for Trump's inauguration. In March, he sat front and center at the Environmental Protection Agency as the president signed an executive order and declared the "war on coal" over. And he's well-connected: Craft's wife, Kelly Knight Craft, a political fundraiser in her own right, has been nominated as U.S. ambassador to Canada.

In Trump, Craft sees a return to the pro-coal policies that lured him into the industry four decades ago -- and reason to believe Alliance can keep growing into the 2020s.

"Some people don't like his style," he said of Trump at an investor conference in Florida this June. "But you can't argue with the substance."

Changing Trends

Craft's bullish view on coal runs up against staggering trends going in the opposite direction. Since 2008, U.S. production of the fossil fuel has fallen 40 percent, to 728 million tons last year. In April, coal generated just 28 percent of America's electricity, about half the share it had when George W. Bush was president. Cheap gas, wind and solar power, tougher environmental policies and flat electricity usage in the U.S. have all played a part in coal's decline. Few experts predict a rebound.

But amid the carnage, Alliance Resource is better-positioned to thrive than most peers. Its customers -- a few dozen power plants in states from Florida to Indiana, Alabama to West Virginia -- are located too far from America's prolific shale-gas fields to switch energy sources, he said at the Florida conference.

Stuck to Knitting

Craft insists he can supply them with cheap-enough coal from his eight non-union mines to make burning the rock worth their while. While Alliance's revenue and earnings declined last year -- when it cut production and its dividend to weather the collapse in demand -- he predicts the company can get back to growing production by about 5 percent annually over the next several years.

"They've stuck to their own knitting, kept their heads down and kept costs low without much debt," said Mike Dudas, an analyst at Vertical Research Partners LLC. "Without question, they've managed through the category 3 hurricane in the industry."

Craft declined to comment for this story.

His name looms large in Kentucky, where he grew up (in Hazard) and later attended the University of Kentucky. At his alma mater, the mine-engineering program has a special professorship named after Alliance Coal. The school's powerhouse basketball teams practice in the $30 million Joe Craft Center. The men's squad lives in a building Craft helped bankroll -- the "Wildcat Coal Lodge."

Political Contributions

He's long given to political candidates in Kentucky and nationally. In the 2016 campaign season, Craft donated at least $1.3 million to Republican candidates and GOP political action committees and other organizations, according to U.S. Federal Election Commission filings. His wife donated at least $500,000, including two payments totaling about $265,000 to Trump Victory, FEC filings show.

Craft's career took off while working at Mapco Inc., a pipeline company based in Tulsa, Oklahoma that had diversified into other energy sectors. He was named head of the coal division in 1986 and, 10 years later, led a management buyout of that unit. In 1999, he took Alliance public as a master-limited partnership, the industry's first such entity. The tax-friendly business model forces a company to produce consistently high levels of cash flow that it returns to investors.

Craft had inherited a company with substantial operations in the Illinois and Appalachia coal basins, where much of the coal has high levels of sulfur. That type of coal fell out of favor with many utilities after the 1990 Clean Air Act amendment that aimed to cut down on acid rain.

Scrubbing Technology

But Craft and a handful of other coal executives saw an opportunity. During the late 1990s and early 2000s, they bought up additional reserves of that high-sulfur coal on the cheap, betting successfully that more utilities would install scrubber technology to remove the sulfur-dioxide rather than ship in low-sulfur coal from as far away as Wyoming. Between 2000 and 2015, Illinois coal production grew almost 70 percent to 56 million tons.

"He made the right move," said George Dethlefsen, CEO of Corsa Coal, which produces the metallurgical coal used in steelmaking. "He's stayed true to his strategy arguably better than anyone else in the industry."

For all the industry's complaints about tough regulation under Barack Obama, the real crusher for several coal giants was self-inflicted. In 2010 and 2011, amid skyrocketing prices tied to booming Chinese demand, Peabody Energy, Arch Coal and Alpha Natural Resources Inc. took out multi-billion dollar loans to make big acquisitions -- right before the market crashed.

Craft, displaying his characteristic restraint, stayed away from any big deals. By 2015, Alliance had methodically grown to produce a record 41 million tons, just when many of his rivals were flailing.

At the Department of Energy panel, Craft called on the federal government to prevent more coal-fired power plants from shutting down and to come up with a way to make building new ones economical.

But even with Trump's regulatory rollbacks and promises to bring coal jobs back, competitive challenges remain in a world that appears mostly united in cutting carbon emissions to combat climate change.

"He can't change that in the end," said Tom Sanzillo, director of finance at the Institute for Energy Economics and Financial Analysis. "But in the meantime, he's running a disciplined operation"

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Murray takes dispute to feds after CSX chief says fuel 'dead'

E&E News

By: Dylan Brown

Published: July 19, 2017

Murray Energy Corp. today took its problems with railroad CSX Corp. to federal regulators.

The largest private U.S. coal company requested that the Surface Transportation Board step in, saying that CSX, the largest coal shipper east of the Mississippi River, is failing to hold up its end of transportation agreements.

Murray Energy accuses CSX of causing or contributing to "countless delays and cancellations of trains" originating at its mines, despite repeated meetings with railroad leadership over the years.

Outspoken CEO Robert Murray said copies of planned litigation over performance were presented to CSX, but nothing has changed.

CSX's website states, "We have a proven track record of providing our customers with safe and efficient supply chains for moving domestic and export coal."

Murray criticized CSX CEO E. Hunter Harrison, a rail industry luminary renowned for turning around struggling companies and championing "precision railroading" — running freight trains on a strict schedule whether or not they are full.

Since Harrison became chief executive in March, "the performance of CSX has only gotten

worse," Murray Energy wrote in a press release.

"This situation has become absolutely intolerable and must be resolved immediately," Murray added.

Harrison made waves today by telling investors that "fossil fuels are dead" on a quarterly earnings call.

"It's not going to be in two or three years, but it's going away in my view," he said.

CSX has no plans to invest in any coal infrastructure.

"Unless something changes drastically in the market, we're not going to go out and put a double track in, or buy locomotives or anything for coal," Harrison said. "Having said that, the last carload of coal that's shipped out of this country, I want to be the carrier that shipped it."

About 70 percent of all coal is shipped by rail, and the Association of American Railroads lists coal as the third biggest source of railroad revenue despite the industry's decline.

"We cannot sit idly by while CSX fails to provide agreed-to service, breaks their own charter from the federal government, and jeopardizes our Company's existence," said Murray, whose company flirted with bankruptcy last year, issuing potential layoff warnings to 80 percent of employees (*Greenwire*, July 8).

More broadly, Murray took issue with the sweeping control CSX has over regional rail traffic, blaming the federal government for creating "regional monopolies" in a system that cries out for "free market competition."

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Bill would quantify carbon footprint of all bills

Greenwire

By: Arianna Skibell

Published: July 19, 2017

Rep. Jared Huffman (D-Calif.) introduced legislation this week that he said would lay bare the climate change impacts of bills introduced in Congress.

The "Carbon Pollution Transparency Act," H.R. 3287, would require the Congressional Budget Office to perform a carbon analysis of bills and resolutions in the same time frame that it releases financial reports on the measures.

The CBO director would calculate a carbon score using "established best practices," like life-cycle analysis, and internationally recognized methods, such as those put out by the Intergovernmental Panel on Climate Change.

The CBO would also be required to take into account both direct and indirect expected greenhouse gas emissions from introduced legislation.

"Knowledge is power," Huffman said in a statement.

"I believe that Americans should be given the power of the full picture of the damage caused by using dirty energy sources, as well as the environmental impact of any piece of legislation considered before Congress."

Huffman also introduced the measure in 2015.

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House panel OKs waste-cutting, workforce bills

E&E News

By: Nick Bowlin

Published: July 19, 2017

The House Oversight and Government Reform Committee approved a number of bills regarding the federal workforce by voice vote this morning. They include:

- H.R. 378, the "Bonuses for Cost-Cutters Act," from Rep. Charles Fleischmann (R-Tenn.), would create a process by which agency officials who identify unnecessary government expenses and enact cost-saving measures can receive cash awards. An amendment from Rep. Jimmy Duncan (R-Tenn.) added some policies for reporting waste.
- H.R. 2897, from Del. Eleanor Holmes Norton (D-D.C.), would allow the mayor of Washington and the National Park Service director to coordinate management of Park Service land in the District of Columbia.
- H.R. 3210, from Rep. Steve Knight (R-Calif.), would require the director of the National Background Investigations Bureau to draft reports on the backlog of security clearance investigations. Rep. Raja Krishnamoorthi (D-Ill.) added an amendment to require the Office of Personnel Management to submit to Congress a report on security clearance practices. Rep. Gerry Connolly (D-Va.) added another amendment to create a study on duplicative resource use in background investigations.
- H.R. 3244, by Rep. Mark Meadows (R-N.C.), would enact annual surveys of federal employees. It passed with an amendment from Meadows to require OPM to submit potential changes to survey regulations and questions to Congress. An amendment to the amendment from Connolly would require agency heads to notify OPM of any incentives to take the survey.

- H.R. 3031, from ranking member Elijah Cummings (D-Md.), would amend the U.S. Code to make it easier for federal employees to withdraw funds from the Thrift Savings Plan.

This was the first markup overseen by new committee Chairman Trey Gowdy (R-S.C.). It also saw the first committee appearance by new member Rep. Jimmy Gomez (D), who won the special election in California's 34th District to replace state Attorney General Xavier Becerra (D).

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Ex-GOP Cabinet official pushes carbon tax on Capitol Hill

Climatewire

By: Benjamin Hulac

Published: July 20, 2017

At a private meeting on Capitol Hill last week, former Treasury Secretary Hank Paulson pressed members of Congress to swiftly address climate change — potentially through a carbon tax, E&E News has learned.

Paulson and Gregory Page, the former CEO of agriculture giant Cargill Inc., made their case for addressing climate change at a meeting July 11 with the Climate Solutions Caucus, a bipartisan group of House members.

The ex-George W. Bush administration Cabinet official told lawmakers that "the time to act on climate change is now, and that there are credible ways to do it," Rep. Don Beyer (D-Va.), who attended the meeting, said in an interview.

The closed-door gathering is the latest example of Paulson's climate change advocacy, a cause that has occupied much of his time since he stepped down from his Treasury post in early 2009.

Paulson acknowledged the political challenges in advancing climate change legislation in Congress but said he would support efforts to put a price on carbon emissions, whether through a carbon tax or otherwise, Beyer said.

"He again seemed to be agnostic," Beyer recalled Paulson saying. "He said 'whatever works,' 'whatever is politically doable.'"

Florida Reps. Carlos Curbelo (R) and Ted Deutch (D) co-chair the caucus, also known as the "Noah's Ark Caucus," a body of 48 members. Members must find a partner from the opposing party in order to join.

Spokespeople for Curbelo and Deutch confirmed that the meeting took place but declined to comment further.

Toward the end of the session last Tuesday — held in a room on the second floor of the Rayburn House Office Building to discuss tax policy and the private sector's involvement with climate change — Curbelo and Deutch presented colleagues with a packet of eight bills, each related to climate change.

The draft bills focus on climate mitigation, adaptation and other climate issues, according to Beyer. Curbelo and Deutch told their peers they hoped they would support the legislation. Caucus members are encouraged to back the bills but are not required to do so, according to a House staffer.

"They can get behind as many as they like," the staffer said.

Curbelo is trying to transition the caucus from a forum where Republicans and Democrats can talk openly about climate change into a problem-solving phase, according to the House staffer.

"He wants this group to be more than just a discussion at this point," this person said.

Paulson made encouraging remarks, said Rep. John Delaney (D-Md.), who was at the meeting.

"He was obviously supportive of the caucus, and he was saying there are a lot of little things we can do, even if we can't do anything big right now," Delaney said in an interview.

Paulson spoke about his support for a carbon tax, according to Delaney. "He talked about what he would do if he could do something big," the congressman said.

"But he also supported the notion of continuing to build momentum on the issue, and the way to build momentum on the issue is to just keep trying to get bipartisan stuff done, even if they're not huge things," Delaney said.

Paulson wrote in 2016 to the Securities and Exchange Commission, urging the agency to squeeze useful information out of companies about how climate change affects their business (*Climatewire*, July 22, 2016). He also helped found the Risky Business Project, a climate research group, with former New York City Mayor Michael Bloomberg and billionaire environmentalist Tom Steyer.

Page is also involved with the Risky Business Project, and the pair made their presentation last week on behalf of that group, sources said.

At the meeting last week, Paulson warned that a feeble response by the United States to climate change cedes American leadership to foreign nations, according to Beyer.

The former financial watchdog said the world will follow cues from the United States on climate change, Beyer said.

"He felt that if we did show leadership, we would catalyze action," Beyer added. "He talked a lot about not sacrificing our global leadership role."

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EPA's Top Economist Seeks To Enhance Certainty Of Cost-Benefit Analyses

Inside EPA

By: Maria Hegstad

Published: July 19, 2017

As the Trump administration prepares to overhaul EPA and other agencies' cost-benefit analyses, EPA's top economist, Al McGartland, says he is working to enhance the certainty of EPA's studies for regulatory decisions, telling *Inside EPA* that the "explosion" of tools in the nascent era of big data provides both challenges and opportunities.

"I'm a big proponent for the use of [cost-benefit analysis]. Every president since Reagan has required [it] for economically significant rulemakings. I don't see that changing," McGartland, director of EPA's National Center for Environmental Economics, said in an exclusive interview.

"I think it leads to better rulemakings. I think it's a good government thing as well as helping to inform decisionmaking. It's been on a progression of getting better and better."

McGartland explains that if EPA economists are able to get "better epidemiology and better tools to deal with uncertainty . . . I think [we can] slowly raise the bar."

The Trump administration appears to agree with McGartland's call to improve certainty in economic forecasting, at least to the extent that regulations may impose costs. For example, the administration's fiscal year 2018 budget request seeks a $662,000 increase for the Regulatory/Economic, Management and Analysis Program at EPA, with $237,000 of that devoted to helping the agency "purchase and deploy tools for economic modeling that better assess job and other economic impacts from regulations," according to the budget justification.

The document also says the administration plans to update the agency's Guidelines for Preparing Economic Analysis "to provide the Administrator with quality analysis of costs, economic impacts, jobs, changes and environmental benefits to better inform decision making and the public about the consequences of regulation."

The justification also indicates the program will "apply the best economy-wide modeling tools to assess the economic effects of environmental regulatory options."

But much of the administration's efforts to overhaul cost-benefit analysis is being criticized for placing too much emphasis on regulatory costs without adequate consideration of benefits.

For example, a group of almost 100 economists and legal scholars, many of whom served in top regulatory positions in prior administrations, recently urged the Trump administration to either revoke or amend a controversial executive order that requires agencies to repeal two rules for every new measure issued and to offset any new regulatory costs.

"[Because] Executive Order 13771 focuses exclusively on the costs of regulation, while ignoring its benefits, the Order is misguided and, if not implemented properly, will likely harm the American public," the group said in a recent letter.

Similarly, many have criticized the administration's decision to withdraw the social cost of carbon metric, which is used to estimate the benefits of rules that curb greenhouse gas emissions, though officials are still working to develop a "rigorous" method to estimate GHG damages, a top White House budget official said recently.

Environmental Economics

McGartland declined to discuss any pending policy issues, focusing instead on the practice of environmental economics.

For example, he noted some challenges to the practice. He said that when dealing with EPA cost-benefit analyses, which generally compare costs to industry against reduced health effects, "some health effects are more certain than others, how we deal with that issue, would be a big step forward."

Some health effects' linked to environmental exposures are considered causal, while some are suggestive, complicating cost-benefit analyses, McGartland explained. "Those kinds of issues sort of integrate toxicology, economics . . . it's a big interdisciplinary challenge."

The nascent era of big data also lends new opportunities and challenges to the practice, McGartland said. "Given how many environmental economists are doing this type of research, [we want to] make use of their skills and research. But the cost in an era of big data, how [different factors] affect employment, the economy, whether a specific program or even about nonpayment [versus] payment areas."

Having so much data can mean that there are "many ways you can do an experiment . . . There's this whole tool set ready to be used on EPA issues that we could use more of. . . . We can always use more information on cost-benefit analyses."

As examples, McGartland pointed to a collection of studies about the health effects of air pollution published recently by the National Bureau of Economic Research. Most of the papers were based on Chinese data, McGartland said, "because they were able to get cool data from China on air quality and heating. . . . We should be doing a lot more of these kinds of studies on U.S. issues as well."

Interdisciplinary Work

McGartland gave a hypothetical example of interest to him, based on big data he said would be available in the United States, comparing waste sites with biomarkers. "Most states these days require blood lead testing, and it is recorded at public health departments," he said. "So we have locations where these kids live, where Superfund and other waste sites are, and other types of facilities." Combining such data could have "great potential" for exploring children's blood lead levels and that of "other biomarkers, not just lead, to think about epidemiology and [EPA] program effectiveness."

Another big challenge McGartland described in his role as an EPA economist is the interdisciplinary nature of the work. "It's a lot easier for an economist to just go off and do economics, or a biologist to go off and do biology. There are different paradigms we bring to the table. The payoff for interdisciplinary [work] is huge. But we have to get past the paradigms we bring to the table."

Working at EPA "creates a nice opportunity for that" kind of challenging but important interdisciplinary work, he said.

As one example, McGartland noted the longstanding difficulty for EPA economists to include non-cancer risk estimates in cost-benefit analyses because there is no basis on which to quantify benefits. An interdisciplinary group of economists, toxicologists and risk assessors is working on the project within the Risk Assessment Forum, McGartland said.

As for other areas where outside researchers could help EPA, McGartland pointed to whole economy modeling and ecosystem services. He noted that EPA economists are awaiting the completion of recommendations in a pending report from EPA's science advisors on whole economy modeling, which is expected to contain recommendations on future research topics. "I'm looking forward to seeing the report. We're putting energies into how we can do the whole economy modeling part."

Regarding ecosystem services, McGartland said that "an ecologist might not understand why we want to value ecosystem services," another interdisciplinary field that he notes has "really taken off in the past five years or so."

To give ecosystem services greater weight in cost-benefit analyses, we "need to know how to weigh those. But [the approach is] very place based. It's hard to transfer results from the Chesapeake to other places in the country, even places like the great lakes," McGartland said. "Even if we had methodologies, we need more studies across more water bodies."

Ecosystem services is another area where researchers from the academic community could be helpful to those at EPA, McGartland said, pointing to the ability of "an army of grad students" to research and gather data.

Economic Fellowship

McGartland spoke with *Inside EPA* in late June, after being named a fellow of the Association of Environmental and Resource Economists. The fellowship is an honor that recognizes contributions to advancing environmental and resource economics.

McGartland explained that the role will not take him away from the agency, but is instead a largely honorary status bestowing "certain lifelong advantages," such as gaining "more of a platform within the environmental resource economic community, to engage them more directly. There's an expectation I would give a certain amount of talks at their meetings and things, whereas generally people are competing for time [to speak]."

Asked if the role could allow McGartland and his colleagues to encourage outside economists to work on research areas of interest to EPA, he suggested it might.

"We always welcome more research in all areas we deal in," he said. "It's an important opportunity to engage the research community more broadly. I would love to do more about educating them about EPA issues, and how their research could help more informed decisionmaking."

McGartland was quick to point to the accomplishments of his co-awardee, Parthia Dasgupta, who was knighted by Queen Elizabeth II. "I'm not in his league." McGartland also insisted that

the award is a recognition not just of him, but also the work of his EPA colleagues. The award has special significance to him, because his PhD advisor, who died about a year ago, was one of the first recipients.

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St. John chemical plant: No further steps, for now, to reduce dangerous emissions

The New Orleans Advocate

By: Della Hasselle

Published: July 19, 2017

The chemical company at the center of a controversy over air pollution in St. John the Baptist Parish is digging in against residents who are demanding it take more drastic steps to curb emissions of a likely carcinogen called chloroprene.

Officials with Denka Performance Elastomer agreed in November to spend $17.5 million on technology aimed at sharply cutting the amount of chloroprene coming from its plant in LaPlace after a study by the U.S. Environmental Protection Agency showed residents in St. John Parish had a higher risk of cancer from airborne pollutants than any other area of the country.

The EPA study, released in 2015, traced the risk to the plant, which for nearly half a century has been using chloroprene to produce neoprene, a synthetic rubber. The chemical was only classified as being particularly dangerous in 2010, amid studies suggesting it could cause lung, liver and kidney cancers.

Since then, controversy has continued to engulf the plant, with residents urging the company to take safety measures beyond those in the agreement made last year.

But in a letter made public this month, Denka officials said they would take no further steps beyond what was already promised, at least for now.

Jorge Lavastida, the company's plant manager, wrote to the Louisiana Department of Environmental Quality in late June, saying the company has already "devoted substantial resources" to emission control.

In a statement to The Advocate, Lavastida said, "These projects not only have been done voluntarily and proactively, but most companies would not even entertain the thought of spending this type of time and money without being ordered to do so."

Plans to retrofit the plant with emission reduction technology began in earnest eight months ago, when officials reached a voluntary consent agreement with state regulators. The plant pledged to reduce emissions of chloroprene by 85 percent before the end of 2017.

Some residents have said that goal isn't nearly ambitious enough, pointing to air monitoring results that have been taken since last spring by researchers with the EPA.

An analysis done in March shows that in a year's time, residents had been exposed to an average of between 12 and 58 times the amount of chloroprene the EPA says puts residents at increased risk of cancer. An 85 percent reduction still would mean "unacceptable" exposure, according to activist group Concerned Citizens of St. John.

The group asked Denka to further reduce emissions, suggesting safety measures that go beyond those laid out in the November agreement. Residents also urged the plant to reduce or stop production altogether.

In his letter to the state, Lavastida said some measures the residents had proposed would be too dangerous. He said officials still were studying the feasibility of others.

State health officials and regulators say the risk posed by the plant is unclear, arguing that the long-term effects of chloroprene exposure are not well understood, especially when levels spike and dip over time.

Measurements show the air around the plant at times has contained as much as 765 times the amount considered risky by the EPA. But sometimes, the data show no chloroprene at all.

Chuck Brown, secretary of the Louisiana Department of Environmental Quality, has accused some environmentalists of "fear-mongering."

The EPA has said "more detailed assessments are needed" to "accurately characterize" health risks caused by chloroprene.

In the meantime, more than a dozen residents filed suit against Denka in June. The suit, which seeks class action status, asks the court to force the plant to stop production until chloroprene readings go down.

"We feel this is a nuisance and trespass interfering with the community's right to live and enjoy their property," said Eberhard Garrison, one of the lawyers representing the residents.

In response to the lawsuit, Lavastida said the company had always worked within limits allowed in Louisiana.

He called the EPA's methodology in determining cancer risk "highly flawed," pointing to discrepancies between the national agency's recommendation and regulatory standards enforced by officials in Louisiana.

State regulations allow 857 micrograms of chloroprene per cubic meter for an eight-hour average — more than 4,000 times the amount the EPA says might cause harm to humans during long-

term exposure, or about 70 years.

It remains to be seen whether regulatory standards in Louisiana will change as a result of further study, but Lavastida said the decision should be up to the LDEQ and EPA, not to residents.

The company is "strongly committed to taking all appropriate legal measures to defend itself against the claims," he said.

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I'm a scientist. I'm blowing the whistle on the Trump administration.

The Washington Post

By: Joel Clement

Published: July 19, 2017

Joel Clement was director of the Office of Policy Analysis at the U.S. Interior Department until last week. He is now a senior adviser at the department's Office of Natural Resources Revenue.

I am not a member of the deep state. I am not big government.

I am a scientist, a policy expert, a civil servant and a worried citizen. Reluctantly, as of today, I am also a whistleblower on an administration that chooses silence over science.

Nearly seven years ago, I came to work for the Interior Department, where, among other things, I've helped endangered communities in Alaska prepare for and adapt to a changing climate. But on June 15, I was one of about 50 senior department employees who received letters informing

us of involuntary reassignments. Citing a need to "improve talent development, mission delivery and collaboration," the letter informed me that I was reassigned to an unrelated job in the accounting office that collects royalty checks from fossil fuel companies.

I am not an accountant — but you don't have to be one to see that the administration's excuse for a reassignment such as mine doesn't add up. A few days after my reassignment, Interior Secretary Ryan Zinke testified before Congress that the department would use reassignments as part of its effort to eliminate employees; the only reasonable inference from that testimony is that he expects people to quit in response to undesirable transfers. Some of my colleagues are being relocated across the country, at taxpayer expense, to serve in equally ill-fitting jobs.

I believe I was retaliated against for speaking out publicly about the dangers that climate change poses to Alaska Native communities. During the months preceding my reassignment, I raised the issue with White House officials, senior Interior officials and the international community, most recently at a U.N. conference in June. It is clear to me that the administration was so uncomfortable with this work, and my disclosures, that I was reassigned with the intent to coerce me into leaving the federal government.

On Wednesday, I filed two forms — a complaint and a disclosure of information — with the U.S. Office of Special Counsel. I filed the disclosure because eliminating my role coordinating federal engagement and leaving my former position empty exacerbate the already significant threat to the health and the safety of certain Alaska Native communities. I filed the complaint because the Trump administration clearly retaliated against me for raising awareness of this danger. Our country values the safety of our citizens, and federal employees who disclose threats to health and safety are protected from reprisal by the Whistleblower Protection Act and Whistleblower Protection Enhancement Act.

Removing a civil servant from his area of expertise and putting him in a job where he's not needed and his experience is not relevant is a colossal waste of taxpayer dollars. Much more distressing, though, is what this charade means for American livelihoods. The Alaska Native villages of Kivalina, Shishmaref and Shaktoolik are perilously close to melting into the Arctic Ocean. In a region that is warming twice as fast as the rest of the planet, the land upon which citizens' homes and schools stand is newly vulnerable to storms, floods and waves. As permafrost melts and protective sea ice recedes, these Alaska Native villages are one superstorm from being washed away, displacing hundreds of Americans and potentially costing lives. The members of these communities could soon become refugees in their own country.

Alaska's elected officials know climate change presents a real risk to these communities. Gov. Bill Walker (I) and Sen. Lisa Murkowski (R) have been sounding the alarm and scrambling for resources to help these villages. But to stave off a life-threatening situation, Alaska needs the help of a fully engaged federal government. Washington cannot turn its back.

While I have given small amounts to Democratic candidates in the past, I have no problem whatsoever working for a Republican administration. I believe that every president, regardless of party, has the right and responsibility to implement his policies. But that is not what is happening here. Putting citizens in harm's way isn't the president's right. Silencing civil servants, stifling science, squandering taxpayer money and spurning communities in the face of imminent danger have never made America great.

Now that I have filed with the Office of Special Counsel, it is my hope that it will do a thorough investigation into the Interior Department's actions. Our country protects those who seek to inform others about dangers to American lives. The threat to these Alaska Native communities is not theoretical. This is not a policy debate. Retaliation against me for those disclosures is unlawful.

Let's be honest: The Trump administration didn't think my years of science and policy experience were better suited to accounts receivable. It sidelined me in the hope that I would be quiet or quit. Born and raised in Maine, I was taught to work hard and speak truth to power. Trump and Zinke might kick me out of my office, but they can't keep me from speaking out. They might refuse to respond to the reality of climate change, but their abuse of power cannot go unanswered.

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These genes may be why dogs are so friendly

Science News

By: Ashley Yeager

Published: July 19, 2017

DNA might reveal how dogs became man's best friend.

A new study shows that some of the same genes linked to the behavior of extremely social people can also make dogs friendlier. The result, published July 19 in *Science Advances*, suggests that dogs' domestication may be the result of just a few genetic changes rather than hundreds or thousands of them.

"It is great to see initial genetic evidence supporting the self-domestication hypothesis or 'survival of the friendliest,'" says evolutionary anthropologist Brian Hare of Duke University, who studies how dogs think and learn. "This is another piece of the puzzle suggesting that humans did not create dogs intentionally, but instead wolves that were friendliest toward humans were at an evolutionary advantage as our two species began to interact."

Not much is known about the underlying genetics of how dogs became domesticated. In 2010, evolutionary geneticist Bridgett vonHoldt of Princeton University and colleagues published a study comparing dogs' and wolves' DNA. The biggest genetic differences gave clues to why dogs and wolves don't look the same. But major differences were also found in *WBSCR17*, a gene linked to Williams-Beuren syndrome in humans.

Williams-Beuren syndrome leads to delayed development, impaired thinking ability and hypersociability. VonHoldt and colleagues wondered if changes to the same gene in dogs would make the animals more social than wolves, and whether that might have influenced dogs' domestication.

In the new study, vonHoldt and colleagues compared the sociability of domestic dogs with that of wolves raised by humans. Dogs typically spent more time than wolves staring at and interacting with a human stranger nearby, showing the dogs were more social than the wolves. Analyzing the genetic blueprint of those dogs and wolves, along with DNA data of other wolves and dogs, showed variations in three genes associated with the social behaviors directed at humans: *WBSCR17*, *GTF2I* and *GTF2IRD1*. All three are tied to Williams-Beuren syndrome in humans.

Story continues after image

NOT THE BIG BAD WOLF Scientists looked at the sociability of dogs and wolves raised by humans (one shown), and compared their DNA, to search for genes linked to dogs' sociability.

"It's fascinating that a handful of genetic changes could be so influential on social behavior," vonHoldt says.

She and colleagues propose that such changes may be closely intertwined with dog domestication. Previous hypotheses have suggested that domestication was linked dogs' development of advanced ways of analyzing and applying information about social situations, a way of thinking assumed to be unique to humans. "Instead of developing a more complex form of cognition, dogs appear to be engaging in excessively friendly behavior that increases the amount of time they spend near us and watching us," says study coauthor Monique Udell, who studies animal behavior at Oregon State University in Corvallis. In turn, she says, that gives dogs "the opportunities necessary for them to learn about our behavior and what maximizes their success when living with us."

The team notes, for instance, that in addition to contributing to sociability, the variations in *WBSCR17* may represent an adaptation in dogs to living with humans. A previous study revealed that variations in *WBSCR17* were tied to the ability to digest carbohydrates — a source of energy wolves would have rarely consumed. Yet, the variations in domestic dogs suggest those changes would help them thrive on the starch-rich diets of humans. Links between another gene related to starch digestion in dogs and domestication, however, have recently been called into question (*SN Online: 7/18/17*).

The other variations, the team argues, would have predisposed the dogs to be hypersocial with humans, a trait that humans would then have selected for as dogs were bred over generations.

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From: Johnson, Yvonne W
Sent: Tue 9/12/2017 5:48:44 PM
Subject: News Clips - September 12, 2017

News Clips - September 12, 2017

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•□□□□□□□□ Denka says EPA estimates for chloroprene risk in St. John the Baptist Parish are too high; agency says science is sound *(The Advocate)*

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Opinion

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•□□□□□□□□ Lawsuit settled over rights to monkey's selfie photo *(AP)*

States Seek 'Reciprocity' To Streamline Approvals Of Oil & Gas Controls

Inside EPA

By: Dave Reynolds

Published: September 11, 2017

JACKSON HOLE, WY -- State environmental regulators are seeking to create a process for streamlining approvals of new oil and gas emissions control technologies for use in complying with EPA and state rules, hoping broad regulatory acceptance will spur innovation and adoption of new technologies for measuring or limiting emissions in natural gas fields.

During the Environmental Council of the States' (ECOS) Fall Meeting Sept. 11 in Jackson Hole, WY, members of the group's shale gas caucus, as well as representatives of industry and environmental groups, generally agreed that developing a process for streamlining approvals and granting reciprocity of new technologies for compliance should be a priority in the coming year.

Martha Rudolph, director of environmental programs at the Colorado Department of Public Health and Environment, said that too often, regulations center on a single technology for compliance and that crafting a process for using new technologies for compliance would spur innovation.

How can we "put together some sort of process for evaluating technologies so if a technology can be approved in one state it can then be applied in another state?" Rudolph said. "What criteria can you use?"

She and other regulators acknowledged that crafting a process to allow "reciprocity," where technologies approved to comply with the rules of one state are accepted by other states and EPA, faces challenges given significant differences between natural gas extraction in various states that would require use of different technologies in different conditions.

State regulators have already undertaken a project through the Interstate Technology & Regulatory Council (ITRC), a public-private coalition working to reduce barriers to the use of innovative environmental technologies and processes, to develop best practices for evaluating the effectiveness of new technologies. But Rudolph said that in the coming year regulators will focus on policies to allow technologies to be used to comply with rules in multiple states.

The caucus explored the idea after Aileen Nowlan of the Environmental Defense Fund + Business argued that regulators need a transparent process so companies can inform regulators of new technologies and request their use in complying with regulations.

We would "like to work with you on how to achieve regulatory innovations that encourage these companies to continue to come forward with great ideas," Nowlan told state officials. Coordinating state approvals of new technologies for use in compliance would bolster the incentive for industry to develop new emissions control technologies.

Additionally, Nowlan said new technologies could reduce the billions of cubic feet of natural gas that "wasted" annually from oil and gas operations on federal lands. The Obama administration's Bureau of Land Management sought to address that issue in a 2016 regulation that Trump officials are seeking to roll back.

She said methane management is an emerging industry, and that companies also have an incentive to invest in technologies that determine when and where uncontrolled emissions are occurring.

She also said leak detection and repair can bring jobs to oil and gas producing states.

State Concerns

State regulators generally backed the idea of reciprocity to speed adoption of new technologies but also raised concerns.

Scott Thompson of the Oklahoma Department of Environmental Quality generally backed the idea but cautioned that moving too quickly to a specific policy could stifle innovation. Additionally, he said states would need a screening process to ensure efforts focused on technologies that hold the greatest promise for cost effective regulatory compliance.

Given the broad array of ideas for addressing emissions states could be "inundated" with requests for approval.

Kate Fay of Noble Energy Inc. said that the company and others have commented to EPA on past rules that the agency should develop a process for adopting new technologies without rulemaking and that those comments could help inform ECOS' effort.

David Glatt, chief of the environmental health section of the North Dakota Department of Health, said that the Trump administration presents an opportunity for states to float new ideas for streamlining compliance and spurring innovation.

"There is a desire in the industry to come up with solutions," he said, adding that developing process for approving new technologies for compliance would encourage further innovation and allow for more cost effective compliance. "There's a lot to address here," he said.

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Northeast States Press Upwind Midwestern, Southern States For Haze Cuts

Inside EPA

By: Stuart Parker

Published: September 11, 2017

Northeast and Mid-Atlantic states are calling on states as far away as Texas, Florida and Michigan to further reduce their emissions of haze-forming air pollutants in order to help them meet the emissions-reduction goals of EPA's regional haze program, issuing a formal "ask" for the haze cuts as part of their air pollution reduction planning.

Upwind states could achieve the request by imposing strict year-round controls on nitrogen oxides (NOx) from power plants, said New York air regulator Rob Sliwinski at a Sept. 8 meeting of the Ozone Transport Commission (OTC) in Washington, D.C. OTC represents 12 Northeast and Mid-Atlantic states as well as the District of Columbia, and they have long sought additional out-of-state cuts in ozone to help attain EPA's ozone standard.

Similarly, the states are now formally asking upwind states to impose the NOx controls on utilities in order to reduce haze-forming emissions, with Sliwinski calling it a "cost-effective, reasonable approach."

EPA's regional haze program requires states to craft a series of state implementation plans (SIPs) that will return visibility to natural conditions in “Class I” areas -- national parks and wilderness areas -- by 2064. The first round of SIPs covered 2008 through 2018 and were focused on installation of best available retrofit technology (BART) to reduce haze-forming emissions at eligible sources, a one-time requirement.

The second phase of the haze program covers 2018 through 2028 and will focus on the emissions reduction measures states will include in SIPs to ensure “reasonable further progress” in meeting the haze program's goals. NOx and sulfur dioxide (SO2) are among the air pollutants that contribute to formation of haze.

EPA in a recent revision to its regional haze rule extended the deadline for states to submit second-round haze SIPs from 2018 to 2021, but Mid-Atlantic/Northeast Visibility Union (MANE-VU) states have already conducted extensive computer modeling and other preparatory work and will proceed to submit their SIPs in 2018, Sliwinksi confirmed. MANE-VU coordinates regional haze planning in most of the OTC area.

Sliwinski at a June OTC meeting said MANE-VU member states plan on meeting the original 2018 SIP submission deadline so that their plans can serve as a model for other states in crafting their haze SIPs.

As part of the SIP development process, MANE-VU, which is asking for upwind pollution cuts to help comply with EPA's revised haze rule. The updated regulation requires enhanced cooperation and consultation between states and federal land managers (FLMs) responsible for Class I areas they pollute, and also interstate cooperation to mitigate emissions from more than one state that affect the same Class I area.

States' 'Asks'

MANE-VU Aug. 25 formally issued the “ask” for upwind pollution cuts alongside other “asks” to satisfy the interstate and federal consultation requirements of the regional haze rule.

The group issued three asks, the first dealing with requirements for other states in the MANE-VU area, which includes Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

The second document outlines requests to FLMs.

But the third addresses states outside the region, asking them to take a series of steps to curb both NOx and SO2 emissions. Those states include: Alabama, Florida, Illinois, Indiana, Kentucky, Louisiana, Michigan, Missouri, North Carolina, Ohio, Tennessee, Texas, Virginia and West Virginia.

MANE-VU asks these states to "ensure the most effective use of control technologies on a year-round basis to consistently minimize emissions of haze precursors, or obtain equivalent alternative emission reductions" for electric generating units with a capacity of at least 25 megawatts that have installed NOx or SO2 controls.

The group further asks that emissions sources modeled by MANE-VU that have the potential to impact visibility in their region perform a "four factor analysis" of reasonable progress goals, including costs of controls, time necessary for compliance, energy and other impacts and remaining equipment life.

MANE-VU also asks that the upwind states implement a ultra-low sulfur fuel oil standard similar to that adopted by MANE-VU in 2007 "as expeditiously as possible and before 2028." MANE-VU's fuel sulfur standard limits sulfur in distillate oil to 15 parts per million by weight; and #4 and #6 residual oil to 0.5 percent sulfur by weight.

For power plants and other large emission sources that have already switched fuels to lower-emitting fuels -- typically natural gas -- MANE-VU asks that upwind states "pursue updating permits, enforceable agreements, and/or rules to lock-in lower emission rates" for SO2, NOx and particulate matter.

Finally, MANE-VU says upwind states "should consider and report in their SIP measures or programs" to boost energy efficiency and increase use of combined heat and power and "other clean Distributed Generation technologies including fuel cells, wind and solar."

Haze Planning

Whether upwind states will respond favorably to the ask is uncertain at best, particularly given ongoing ambiguity about the status of haze planning in some of those states.

For example, lengthy litigation over Texas' efforts to craft a haze plan continues and the Trump EPA is expected to be more favorable to haze SIPs that might impose weaker controls on NOx and SO2 emissions from power plants than the OTC/MANE-VU states would advocate. That case, *State of Texas, et al. v. EPA, et al.,* is in abeyance, while EPA conducts a voluntary remand of the plan to address alleged shortcomings.

And the 10th Circuit in a Sept. 11 order indefinitely stayed litigation filed by electric company PacifiCorp over the Obama EPA's final rule partially approving and partially disapproving Utah's haze SIP. The decision, granted while the Trump EPA reconsiders the final rule, prolongs uncertainty over the final status of that air plan.

Many upwind states have previously resisted EPA efforts to force them to reduce emissions in order to mitigate interstate air pollution. And several states outside the OTC/MANE-VU region will also take until 2021 to craft their own haze SIPs, so their approach to the new haze rule may not be apparent for some time.

MANE-VU's "ask" for its own member states is similar to its ask for upwind state pollution cuts, but adds a requirement for states to reduce emissions on high electric demand days (HEDD), typically hot summer days already conducive to ozone formation when sometimes uncontrolled "peaking plants" operate.

Meanwhile, MANE-VU has already engaged in significant outreach to FLMs with respect to the Class I sites within its region, Sliwinksi says. The group asks FLMs to consult with MANE-VU Class I area states when scheduling "prescribed burns" and ensure such deliberate burning of forests or other ground cover does not impact visibility. Also, EPA should develop measures that will further reduce emissions from heavy-duty vehicles, and that Class I area states' asks are addressed in contributing states' SIPs prior to the plans' approval by EPA.

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Court stays Utah haze plan in win for coal-fired utility

Greenwire

By: Sean Reilly

Published: September 11, 2017

A federal appellate court has stayed an Obama administration plan intended to slash haze-forming emissions from two coal-fired power plants in Utah.

In an order this morning, a two-judge panel on the 10th U.S. Circuit Court of Appeals granted the request from PacifiCorp and the state to pause the U.S. EPA regional haze plan published in July 2016.

The Trump administration earlier this year agreed to revisit that plan; in today's order, the two-judge panel also froze proceedings on related legal challenges, saying it would waste resources to move ahead in light of EPA's decision to reconsider the original 2016 regulations.

The order marks the latest victory for power companies and states who had challenged the Obama administration's approach to running the regional haze program, which was created under the Clean Air Act to restore natural visibility to 156 national parks and wilderness areas by 2064.

EPA imposed the Utah plan last year after concluding the state's strategy didn't do enough to cut releases of nitrogen oxides (NOx) from PacifiCorp's Hunter and Huntington facilities in central Utah.

In a phone interview this morning, PacifiCorp spokesman David Eskelsen reiterated the company's view that the state plan met regional haze requirements and "should have been approved."

Michael Shea of HEAL Utah, an environmental group that had opposed the stay request, decried the court's decision.

"It's a little bit baffling that the EPA is going back on its own research and reformulating a new plan," he said in a separate interview.

In issuing the plan last year, EPA had predicted it would eventually cut NOx releases by almost 10,000 tons annually and improve views in eight national parks. But Utah's air quality chief had argued that the tighter controls would yield little visibility improvement in return for a projected $700 million price tag.

The state found a sympathetic listener in EPA Administrator Scott Pruitt. As Oklahoma attorney general, the Republican fought an unsuccessful three-year legal battle against an EPA haze plan for his state. In July, Pruitt hand-delivered a letter signaling EPA's decision to reconsider the plan to Utah Gov. Gary Herbert (R), according to *The Salt Lake Tribute*.

On a related front, EPA today published a proposed rule to withdraw a separate NOx reduction plan for Arkansas that has also been contested by utilities and state officials. The proposal, which would apply mainly to plants owned by Entergy Corp., has a 30-day comment period ending Oct. 11.

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EPA Reiterates Defense Of Policy Finding NSR Violations To Be 'Ongoing'

Inside EPA

By: Stuart Parker

Published: September 11, 2017

EPA in a new legal brief is reiterating the agency's long-running policy that says violations of Clean Air Act new source review (NSR) permit mandates are "ongoing" and not subject to the general five-year statute of limitations for enforcement actions, even as the Trump administration weighs a massive overhaul of the NSR program.

In a Sept. 9 reply brief filed in the U.S. Court of Appeals for the 5th Circuit suit *USA, et al. v. Luminant Generation, Inc. et al.*, the Department of Justice (DOJ) on behalf of EPA maintains the position that years-old violations are ongoing, not singular, events. DOJ says the violations are subject to enforcement action and eligible for injunctive relief, which in practice results in courts mandating NSR permit reviews that in turn can lead to requirements for expensive new emissions controls.

DOJ's arguments largely echo its position outlined in a June 6 filing in the case, where power company Luminant is trying to get an NSR enforcement scrapped for being time-barred.

Sierra Club is intervening in the case on EPA's behalf, backing the agency's appeal of the district court ruling that largely rejected an EPA enforcement action against Luminant for years-old alleged violations of NSR mandates that the lower court found fell under the air law's statute of limitations.

Federal appeals court have adopted differing opinions on the issuing of whether NSR violations are singular events subject to the statute of limitations or are ongoing and not subject to that limit.

In two appellate cases from 2013, courts found that NSR violations are subject to the statute of limitations, including a 3rd Circuit decision from in *United States v. EME Homer City Generation*, and a 7th Circuit decision in *United States v. Midwest Generation, LLC.*

Both the 5th and 6th Circuits have ruled in favor of the federal government and environmentalists in cases involving NSR violations that the courts deemed "ongoing," but in those cases state regulations in Louisiana and Tennessee explicitly created ongoing liability. The cases are *United States v. Marine Shale Processors*, decided by the 5th Circuit in 1996, and *National Parks Conservation Association v. Tennessee Valley Authority*, decided by the 6th Circuit in 2007.

EPA's appeal in *Luminant* challenges the findings of the U.S. District Court for the Northern District of Texas, which ruled that EPA's enforcement action against electric utility Luminant was largely impermissible because the alleged failures of the company to conduct NSR review were in most cases more than five years old, and hence EPA's claims are time-barred under the statute of limitations.

EPA claims that Luminant operated its power plants without meeting best available control technology (BACT) emissions control requirements in breach of the prevention of significant deterioration (PSD) permit program, closely related to NSR. PSD permits are required in areas attaining national ambient air quality standards (NAAQS), while nonattainment NSR permits are required in areas violating NAAQS.

'Mixed' Case Law

DOJ in the new brief says, "Because operating a modified source without complying with BACT emission limitations and without a PSD permit violates the Clean Air Act, the statute of limitations does not bar the United States' claims" -- thought the department concedes that case law on the issue is "mixed."

The statute of limitations "does not bar any of the United States' claims, either for per diem statutory penalties or for a remedial injunction," but the "statute of limitations does not apply to

the claims for injunctive relief," even if the court were to find that claims for air law penalties are time-barred.

The district court disagreed, finding that NSR violations apply to the time a "modification" to a facility is made without the proper NSR review, and injunctive is relief also barred, under the "concurrent remedy" doctrine. The concurrent remedy doctrine provides that when legal and equitable relief are available "concurrently," based on the same facts, then "equity will withhold its relief in such a case where the applicable statute of limitations would bar the concurrent legal remedy," under the 1947 Supreme Court ruling in *Cope v. Anderson.*

EPA's decision to stick with the Obama-era view of its authority under NSR comes as the agency is under intense pressure from industry to overhaul the NSR program as part of the Trump administration's deregulatory agenda.

Critics say that NSR review can stymie necessary maintenance and upgrades that would actually make plants more efficient and less-polluting and also limit economic growth.

Meanwhile, another key principle of the NSR program is being tested in the Supreme Court case *DTE Energy Co., et al. v. United States, et al.*, where Michigan utility DTE is petitioning the court to hear its appeal against a 6th Circuit decision upholding EPA's view that compliance with NSR be determined before construction on a new project begins, using projected emissions increases. DTE argues that this cannot hold if actual emissions resulting from a project do not exceed statutory thresholds to trigger NSR.

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Denka says EPA estimates for chloroprene risk in St. John the Baptist Parish are too high; agency says science is sound

The Advocate

By: Della Hasselle

Published: September 11, 2017

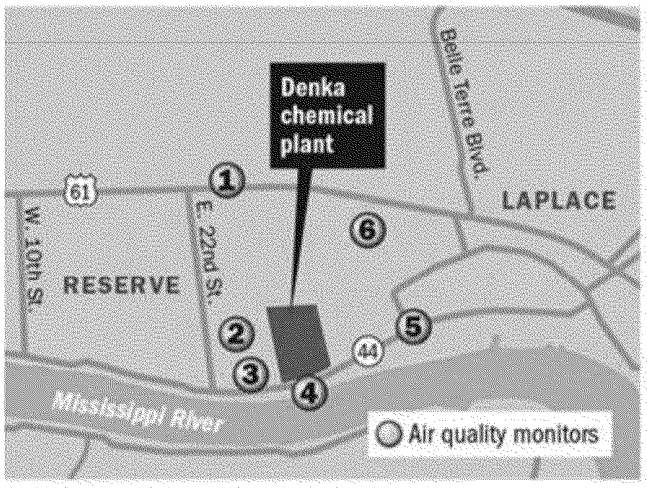
A chemical manufacturer in LaPlace that has come under fire in recent years for releasing concerning levels of chloroprene into the air has accused the Environmental Protection Agency of using faulty science when estimating safety limits for exposure.

Since 2010, the EPA has asserted that a certain level of exposure to the chemical — specifically more than 0.2 micrograms per cubic meter of air every day for a lifetime — puts people at increased risk of getting liver or lung cancers.

Air monitoring over a single year in St. John the Baptist Parish showed that the chemical plant at times exposed residents to between 12 and 58 times that amount.

AVERAGE CHLOROPRENE LEVELS IN AIR SAMPLES

Measurements taken above 0.2 micrograms per cubic meter signify an increased cancer risk



	Location	Average levels	Highest levels
1	East St. John High School	2.5	24.9
2	238 Chad Baker	11.6	46.1
3	5th Ward Elementary	9.1	75.1
4	Mississippi River levee	9.1	147.0
5	Acorn and Highway 44	5.2	153.0
6	Ochsner Hospital	4.3	66.7

Source: U.S. Environmental Protection Agency

Advocate graphic

But the company that produces the chemical, Denka Performance Elastomer, is claiming that the EPA's calculations are fundamentally wrong, and that the flawed assessment has caused the company “severe reputational damage.”

In a letter to the agency on June 26, Robert Holden, a lawyer for the company, and Jorge Lavastida, the plant manager, complained that the EPA's public assessment had "created unnecessary public alarm" in the parish.

The letter said that environmental activists and plaintiffs' lawyers were handing out misleading flyers and protesting near the company's facility wearing shirts labeled "Only 0.2 will do" while spreading false assumptions about chloroprene.

Many residents have turned Denka's air emissions into an "environmental cause célèbre," Lavastida and Holden wrote in the letter, later adding: "For (Denka), this matter is at a crisis point."

They said the company couldn't possibly lower chloroprene amounts to the level that residents demand, even with the help of advanced air pollution control measures.

Denka also formally requested that the EPA withdraw its assessment and review its interpretation of chloroprene exposure and health effects. That request was submitted under the Information Quality Act, a law meant to ensure that federal agencies disseminate accurate data to the public.

Instead of classifying chloroprene as "likely to be carcinogenic to humans," the company wants the EPA to say chloroprene has "suggestive evidence of carcinogenic potential."

The EPA has until the end of October to formally respond to the company's request, but spokeswoman Nancy Grantham said the agency takes issue with the conclusion that its science is shaky.

The predictions about chloroprene's health effects are "based on very strong scientific studies," she said, adding that the EPA's conclusions "underwent very extensive review" by experts

within the agency and independent expert peer reviewers.

In the letter, Lavastida said that "Congress repeatedly instructed EPA" to improve its risk assessment methodology, and that while the agency previously agreed, its staff indicated last summer they'd be unable to update the chloroprene assessment due to “resource constraints."

St. John residents have been living near chloroprene production for about 50 years. The chemical is manufactured in the area to produce neoprene, a synthetic used to make durable, waterproof products like wetsuits, orthopedic braces and electric insulation.

Denka bought the LaPlace plant from DuPont in late 2015.

That purchase happened just a month before the EPA released its National Air Toxic Assessment, which estimates exposure for 180 air toxins nationwide.

The study found that residents of St. John have the highest potential risk of cancer from airborne pollutants in the country. It traced that risk to the LaPlace plant, putting the facility under increased scrutiny.

Although the plant has been producing chloroprene within permitted limits for decades, the findings in the National Air Toxic Assessment prompted a series of actions by the EPA and the state Department of Environmental Quality.

Initially, the agencies started working together to monitor air quality around the plant.

When data started coming back showing high levels of chloroprene, the state in January entered into a consent decree with the company. Denka agreed to spend nearly $18 million on “state of the art technology” to retrofit the plant and reduce emissions by 85 percent before the end of 2017.

Now, Denka is saying what residents have long suspected — that an 85 percent reduction won't get the levels down to 0.2 micrograms per cubic meter of air.

But even so, chloroprene production shouldn't be a problem, company officials said.

Lavastida and his lawyer point to a study done by Ramboll Environ, a private environmental, safety and health sciences consulting firm. Researchers with that firm determined that for chloroprene, the EPA's human inhalation unit risk, called the IUR, is 156 times too high.

In fact, Ramboll Environ said its researchers reached opposite conclusions from some of the EPA's studies.

For instance, Ramboll Environ found that when assessing risk, the EPA rejected a "leading epidemiological study" that showed there was no elevated cancer risk to workers exposed to chloroprene.

The company also said the EPA relies on studies involving animals without properly taking into account "significant differences across species" in how chloroprene is metabolized.

"Humans are likely to be comparatively much less sensitive to the effects of chloroprene exposure," the firm's researchers said.

Lavastida has further said that the only ambient standard applicable to chloroprene is an exposure of up to 857 micrograms per cubic meter for an 8-hour time period, calling the EPA's health risk estimates "unreasonably conservative."

Denka officials and Ramball Environ aren't the first ones to question claims made by some residents.

State health experts say measuring the risk to St. John residents has been difficult because of several variables, including the proximity of the exposed person to the site, the amount of time chloroprene stays in the body and the tendency for chloroprene levels in the air to spike and dip over time.

Chuck Brown, the state DEQ secretary, has said the environmentalists are "fear-mongering."

In the meantime, though, many remain convinced that they're being put at risk. Thirteen residents joined a lawsuit asking a judge to order the plant to stop or reduce production until emissions are lowered. That suit, which was filed in state court but has been moved to federal court, seeks class-action status and also asks for monetary damages.

Among the plaintiffs in the suit is Robert Taylor, the founder of the activist group Concerned Citizens of St. John, who said he was "astounded" by the company's letter to the EPA.

"They are asking the EPA to allow them to poison us in order to save their reputation," Taylor said. "What about our health?"

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U.S. Coast Guard, EPA Cleaning up a Dozen Texas Chemical Spills After Harvey

Reuters

By: Emily Flitter

Published: September 11, 2017

HOUSTON (Reuters) - The U.S. Coast Guard and the Environmental Protection Agency are working with Texas state regulators to clean up oil and chemicals spilled from a dozen industrial facilities after flooding from Hurricane Harvey, authorities said.

The spills came from oil refineries, fuel terminals and other businesses, but EPA spokeswoman Terri White said it was not possible to provide an estimate for the amounts spilled.

"Initial reports were based on observation," White said. "Some spills were already being cleaned up by the time EPA or other officials arrived to assess them and others had already migrated offsite."

Refineries owned by Valero Energy Corp in Houston, Motiva Inc in Port Arthur, and Exxon Mobile Corp in Baytown, were among the facilities that had reported spills, according to White. Representatives for those companies did not immediately respond to requests for comment.

Officials also reported spills at Kinder Morgan Inc's Pasadena fuel storage terminal and at an oil terminal in Texas City owned by NuStar Energy LP.

Kinder Morgan spokeswoman Lexey Long said on Monday the company reported a spill of 500 barrels of gasoline on Aug. 27. Workers covered the spill with a foam blanket and set up a barrier to keep the public away.

"The spill has been fully remediated," she said.

NuStar spokesman Chris Cho said a small amount of petroleum contact water spilled out of a storage tank into a containment area and was quickly cleaned up. "There were no injuries and no environmental impact," he said.

Two wastewater treatment plants - Integrity Golden Triangle Marine Services of Port Arthur and

San Jacinto River and Rail in Beaumont - also appeared on the list of spill response locations that EPA provided to Reuters.

A San Jacinto River and Rail spokesman said the plant had spilled a "foamy emulsion" when floodwaters overtopped the berms around its facility but its operators did not expect any health or environmental impacts.

Integrity Golden Triangle President Robert Goolsby said a wastewater pit at his plant overflowed into a concrete moat designed to contain such spills, and plant workers were already cleaning it up when state regulators and the Coast Guard arrived.

The liquid spills come in addition to more than a million pounds of toxic emissions above legal limits that spewed from industrial facilities following Harvey, according to reports from companies filed with the Texas Commission for Environmental Quality.

The EPA and other authorities had warned people affected by the flood that waters could contain bacteria and toxic chemicals, but have said little yet about the specific origins or quantities of substances.

Residents in Baytown, where houses sit along the Houston Ship Channel next to several major refineries and chemical plants, said they were concerned about the impact of the spills and releases on health.

"I'm against the sword and the wall, what can I do?" said Carlos Caban, one of the residents, whose son had taken pictures of contaminated-looking floodwaters in nearby refinery site.

Several residents reported seeing a metallic sheen on water flowing near the plants during the heaviest flooding, posting videos to YouTube.

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U.S. regulator probes Arkema's safety practices after Texas fires

Reuters

By: Emily Flitter

Published: September 11, 2017

HOUSTON (Reuters) - The U.S. Environmental Protection Agency is investigating whether chemical maker Arkema SA followed safety rules at its Crosby, Texas, plant where chemical containers exploded and burned for days after flooding from Hurricane Harvey, an EPA official said on Monday.

The EPA sent Arkema a letter asking for information that would help the agency determine whether the plant had followed chemical accident prevention rules and other parts of the Clean Air Act, according to a copy of the letter provided to Reuters by the EPA official, who did not want to be named.

Containers holding volatile organic chemicals ignited on Aug. 31, after flooding from Harvey knocked out power to the plant. Arkema's North America chief executive had warned there was no way to prevent them from igniting after the plant's cooling systems shut and its workers evacuated.

"We warned the public well in advance that fires would occur and of the danger of breathing the smoke from the fires at our site," Arkema spokeswoman Janet Smith said in an email to Reuters on Monday. "We pleaded with the public, for their own safety, to respect the 1.5-mile evacuation zone imposed by the unified command well prior to any fire."

Smith said "a number of government agencies" were investigating the plant and the company was fully cooperating.

The Sept. 7 letter, from the EPA's Enforcement Division director, Cheryl Seager, said the company had 10 days after receiving it to comply with the agency's request. She said the EPA could use what it received in an "administrative, civil or criminal action."

Containers at the plant, which each held around 500,000 pounds of organic peroxides, burned for days, leading the plant's operators to evacuate the area around the plant and carry out a controlled burn of the remaining chemicals that had not yet ignited on their own.

Police and firefighters who responded to the fires are suing Arkema in a Texas county court, claiming negligence led to the fires and caused the first responders "serious bodily injuries" when they inhaled smoke.

The first responders filed their lawsuit the same day that Seager sent her letter.

"We deeply regret that anyone suffered harm as a result of the havoc wreaked on our plant by Hurricane Harvey," the company said in a statement in response to the lawsuit.

The EPA is also testing areas around the plant for pollutants. It announced on Saturday it had not found any volatile chemicals in water runoff samples collected from the plant.

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EPA grants pollution waiver to Florida utilities after Irma

Associated Press

By: Michael Biesecker

Published: September 11, 2017

WASHINGTON — State and federal environmental regulators issued a blanket waiver on Monday for Florida electricity companies to violate clean air and water standards without penalty for the next two weeks.

The Environmental Protection Agency said the so-called No Action Assurance granted through Sept. 26 came at the request of the Florida Department of Environmental Protection. The letter said the move will provide Florida utility generators needed flexibility to maintain and restore electricity supplies in the wake of Hurricane Irma. The EPA said the move was in the public's interest.

Florida's Division of Emergency Management said about noon on Monday that 6.52 million utility customers in the state were without power. That's more than 65 percent of all electricity customers.

The EPA's assurance letter will allow utilities to operate outside restrictions mandated by their permits, including potentially using dirtier fuels, running for longer hours or electively bypassing pollution control equipment. Coal-fired plants can also discharge wastewater laced with levels of toxic-heavy metals at higher concentrations than what would normally be permitted.

The utilities are still required to monitor and report the levels of regulated contaminates in their air emissions and water discharges, according to the letter.

The Associated Press reported last week that air pollution levels spiked in the Houston area after a similar enforcement waiver was granted to Texas petrochemical facilities ahead of Hurricane Harvey's arrival.

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Trump officials resist climate talk as disasters flare

Climatewire

By: Zack Colman

Published: September 12, 2017

The Trump administration has one response to questions about climate change and its link to the hurricanes and wildfires damaging the country: Not now.

U.S. EPA Administrator Scott Pruitt said his main focus is on hurricane recovery efforts, not whether climate change had anything to do with the mounting disasters. Energy Secretary Rick Perry, homeland security adviser Tom Bossert and White House press secretary Sarah Huckabee Sanders have all said similar things.

Many climate change communicators and scientists, however, doubt that the administration will address the climate issue once the catastrophes have passed. They say it delays, at best, an important discussion when the nation is focused on extreme weather. While climate scientists avoid saying that climate change directly causes individual events, most agree that rising temperatures are making those events more possible and intense.

"I don't think it's legitimate at all, particularly coming from the Administration," Andrew Dessler, a climatologist at Texas A&M University who worked in former President Clinton's Office of Science and Technology Policy, said in an email. "They just want the issue to go away. For them, there will never be a good time to talk about it."

Republicans, and now the Trump administration, have tested new phrases for different phases of public discourse on climate change. Several years ago, the party was almost in lockstep, saying it couldn't discuss climate change because a lawmaker is "not a scientist." When officials like Perry, Pruitt, Secretary of State Rex Tillerson and Interior Secretary Ryan Zinke went through their confirmation hearings, they all said they thought climate change was occurring but that the level of human contribution to it was undetermined.

Republicans in states affected by Hurricanes Harvey and Irma have also focused their attention on providing relief to millions of people without electricity, homes and other basic necessities (*Climatewire*, Sept. 7). None of the Florida and Texas GOP lawmakers contacted by E&E News

addressed questions about the role of climate change on those storms.

For the White House, there are more immediate concerns.

"Right now, the administration is focused on the recovery and relief efforts," Sanders said at yesterday's press briefing when asked whether President Trump would reconsider his withdrawal from the Paris climate accord in light of the recent extreme weather.

Others see the administration's moves as a coordinated messaging tactic to shut down climate questions, even as Miami Mayor Tomás Regalado (R) and Sen. John McCain (R-Ariz.) both said they are encouraging their counterparts to begin a climate conversation.

That discussion is happening regardless of whether the Trump administration is participating, said Elke Weber, a psychology and public affairs professor who focuses on energy and the environment at Princeton University. Weber and her colleagues cobbled together a list of 10,748 significant weather events recorded by the National Climatic Data Center and noticed that Twitter mentions of climate change spiked shortly after those incidents. If an event was perceived as abnormal, it generated more chatter than if it inflicted financial damage, the study found.

"[C]oncrete and personal evidence of a scientific phenomenon somehow makes the theory harder to dismiss," Weber said in an email. "[W]e did not hear about any solar eclipse deniers last month, did we?"

The White House's aversion is perhaps not surprising for a president who has openly questioned mainstream climate science and called it a hoax. Trump also pulled out of the Paris Agreement and is pursuing policies friendly to coal, natural gas and oil interests.

Asked whether Trump believes the mainstream scientific finding that humans are driving greenhouse gas emissions higher and fueling climate change, Sanders said: "The president has addressed this already. I don't think that it's changed over the last several weeks."

Climate scientists have been strengthening the evidence behind human-caused climate change. A draft of a study constituting part of the National Climate Assessment, a federal report due next year, found it "extremely likely" that humans account for most of the global mean temperature increase since 1951.

By skirting questions about the link between global warming and extreme weather events, the Trump administration is squandering an opportunity, said Susan Joy Hassol, director of Climate Communication. That's because national events that grab the broader public's attention, known as "focusing events," present key windows for shifting policy direction if leaders take charge and promote it.

"[I]f we are going to recover and rebuild in a way that makes us less vulnerable to future storms, we must talk about these connections, and now is the best time to do so, when people are paying attention and when decisions about rebuilding are being made," she said in an email.

To climate change experts, the resistance to discussing the issue and its links to extreme weather events borders on negligence.

"It undermines the public support for much needed actions and better planning (adaptation) that has been so badly exposed as lacking in recent events," Kevin Trenberth, a senior climate scientist at the National Center for Atmospheric Research in Boulder, Colo., said in an email. "Scientists should be saying 'we told you so' because it is true!"

Some signs are emerging, however, that the administration is at least taking seriously the chance for repeated storms.

Bossert reiterated comments he made last week that the Trump administration is considering new flood standards to replace the Obama-era rules it revoked last month. Bossert said the goal is to make "sure that federal dollars aren't used to rebuild things that will be in harm's way later or that won't be hardened against the future predictable floods that we see."

Bossert declined to address whether human activity created conditions for a more intense storm. But he said the Trump administration would have to "do a larger trend analysis at a later date" after noting that scientists were "dead on that this would be a stronger and more powerful" season.

The climate science behind hurricanes is nuanced. Satellite records are limited, so there's not much data about hurricane activity before the 1970s. Most scientists don't say that climate change causes hurricanes, but there's general agreement that higher temperatures make them more intense (*Climatewire*, Sept. 8).

Some trends exist that climate scientists say can feed stronger hurricanes. Trenberth said warmer water at the ocean's surface and the top 200 meters is "fuel for the storms." Global warming is responsible for much of the heating of that top-200-meter layer, he said. Sea-level rise and warmer water, which expands under higher temperatures, can generate higher storm surges.

"Actually this is exactly the time to talk about climate change," Trenberth said. "It is downright irresponsible to have these disasters, and wildfires in the West, without informing the public that there is a human component to them."

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The Judicial Branch Is Our Best Hope for Climate Action Under Trump

Slate

By: Sabrina McCormick

Published: September 11, 2017

It's been a rough few months for anyone who cares about substantive action on climate change—we're out of the Paris Agreement, the head of the Environmental Protection Agency is reassessing the science on climate change, we're recommitting to coal. This lack of action is in

stark relief to the increasingly extreme weather, some proportion of which may be attributed to climate change.

But a bright spot emerged in July when a federal appeals court came down in favor of a rule enacted by Barack Obama that will curtail methane, a greenhouse gas 30 times more potent than carbon dioxide that is being emitted in high amounts from natural gas and petroleum hydrofracking. Without a better plan to cap emissions, it will be almost impossible to avert catastrophic climate change. The methane case is likely to be appealed and ruled on again by additional judges, but this was a promising victory for a rule that, if enacted, will cut emissions of volatile organic compounds and methane from commercial sources, in particular, protecting human health.

The methane case was another indication that if we want climate action from this government, the judiciary has become the only branch likely to give it to us. That is frightening for the obvious reasons—that our president and our Congress are not interested in protecting us from this clear and real threat—but it should also be concerning. Leaving to the judiciary important decisions about environmental regulation—which will play a large role in how we fight climate change—is also frightening because the judicial branch has often been reticent to make decisions about this topic.

For one thing, many judges have limited experience in this area. They are reluctant to take on cases involving climate change, often arguing that litigants do not have "standing"—the idea that a plaintiff can prove she has been harmed by an issue that the court can address. This is partly due to how difficult it is to prove direct causation when it comes to harm from climate change—though that difficulty does not mean it is not happening. But this is no reason to dismiss a case. Indeed, there is plenty of legal precedent for establishing that climate change will cause real harm to people; the Supreme Court addressed standing when it allowed Massachusetts to bring a case against the EPA that would regulate tailpipe emissions to avoid massive climate-induced coastal flooding in the future.

Other judges have said that climate is a "political question" that should be addressed in the other two branches rather than the courts. Yet the election of Trump and the most recent Congress have led to immediate backward movement on climate, leaving the judiciary as the only branch with the potential to protect humanity from itself. Judges also often defer to government agencies, mostly the EPA, saying that it is responsible for generating evidence about climate change and has the executive power to decide what to do about it. The current EPA, however, is more interested in relitigating established science than in taking action to stop clear threats. EPA Administrator Scott Pruitt has already tried to sue to roll back something called the

endangerment finding, which establishes that carbon dioxide is harmful to human health. The Trump administration has also nonsensically decided to use data from 2003 to establish the social cost of carbon, a figure that allows us to calculate the future cost of climate change to encourage limiting emissions.

There are many judges who will face climate lawsuits in the weeks and years to come, as a result of the current administration and Congress' lack of action. Cases are being brought to the courts about energy development, including investments in renewable energy and energy efficiency that could catalyze or retard an American transition to energy independence. In other instances, cases are brought to the courts for judges to enforce environmental laws that protect critical habitat for the species most dear to us, or protect our children from illegal levels of airborne toxics—all cases that affect the trajectory of climate change. If history is any indication, these cases will likely be very difficult to resolve. But the judiciary needs to set aside its reticence to address climate change. Scientific evidence demonstrating the risks and damages of airborne pollutants and their resultant impacts is strong. As my team's research released last week points out, science has been critical to cases about endangered species, energy, and many other legal challenges. It can be so for climate change, too. Experts will come to the courts. There are many plaintiffs who have standing. There is little political question in many cases.

The founders of this nation meant the courts to be a place where an individual could leverage a grievance if she was wronged. Many are being wronged by climate change, and the court system should be the place where they can obtain redress. In this current administration, the court system has become the key avenue through which climate change can be affected. Judges should take this to heart. Like the judges on the federal appeals court that ruled for the methane rule, others should figure out how to deal with climate concerns.

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Carper asks Trump to rethink policies in storms' wake

E&E News

By: Arianna Skibell

Published: September 11, 2017

The Senate Environment and Public Works Committee's top Democrat is urging President Trump to reinstate federal climate policies after Hurricanes Harvey and Irma.

Delaware Sen. Tom Carper asked Trump to reconsider recently revoked or weakened initiatives aimed at helping communities prepare for extreme weather and other climate-change-related effects.

"While our country debates how to address climate change, rising sea levels and extreme weather events are no longer a matter of debate, becoming the new norm and placing extreme burdens on the American people and economy," Carper wrote in a recent letter.

"As seen most recently with Hurricane Harvey," he said, "the impacts of extreme weather events are devastating, resulting in lives lost and imposing long-term economic costs."

The cost of rebuilding damaged infrastructure after catastrophic storms is growing, he said. Texas Gov. Greg Abbott (R) estimated $180 billion is needed to help his state recover from Harvey. The cost of recovery has grown significantly in recent years, according to NOAA.

"The recent events in Houston and the impending impacts from Hurricane Irma are reminders that our country can no longer delay," Carper said. "We must better prepare our communities, making them more resilient in the face of a new climate reality."

Trump has rescinded a number of Obama-era executive orders that aimed to facilitate extreme weather resiliency and planning. Most recently, he issued an order that would no longer require public infrastructure projects built in flood-prone areas to account for sea-level rise.

Carper asked Trump to reinstate the Federal Flood Risk Management Standard and to bring back and fund agency preparedness efforts. He noted that Trump's fiscal 2018 budget would reduce or zero out funding for climate resiliency action across the government.

The Democrat also requested that the president release the fourth National Climate Assessment and extend the charter for a federal climate panel. Last month, the administration disbanded the Sustained National Climate Assessment Advisory Committee, a 15-member panel of academics, industry representatives, government officials and nonprofit representatives tasked with deciding how to use the National Climate Assessment for long-term resilience planning.

NOAA has said the panel's demise will not affect the scheduled 2018 release of the assessment.

Finally, Carper urged Trump to host a "red team-blue team" exercise on climate preparedness. This request counters plans by U.S. EPA Administrator Scott Pruitt who has said he would lead an initiative to challenge mainstream climate science using a "back-and-forth critique" by government-recruited experts.

"Instead of using a red team/blue team exercise to reassess internationally peer-reviewed climate science as some in the Administration would like to do," Carper wrote, "these types of exercises should be used to assess our nation's structural vulnerabilities to the expected impacts of climate change."

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Firefighters stretched thin as historic wildfire season drags on

Billings Gazette

By: Sam Wilson

Published: September 10, 2017

A little over a week ago, after strong winds and soaring daytime temperatures pushed a wildfire through a vast swath of the Bears Paw Mountains south of Havre, the situation for the fire team managing the blaze was grim. The more than 15,000-acre East Fork Fire had zero containment, had destroyed at least five cabins and was threatening an estimated 130 additional structures in the area.

Yet firefighters assigned to the blaze had little hope of receiving backup, with national resources stretched uncommonly thin in what has shaped up to be a historic fire season in the Western U.S.

"The national situation is there are so many fires and so many incidents going on that there are extremely limited resources," Martin Balukas, who worked as a spokesman with the team, noted at the time. "Right now, we have enough to be operationally effective. I don't mean to imply that firefighting resources are being jeopardized, but we're in the unusual situation of relying on county and local resources for much longer than is ordinary."

Forecasters are cautiously optimistic that the end of this week could bring a long-awaited shift to seasonal temperatures, with a cold front expected to bring the first significant precipitation that Montana — and much of the inland Pacific Northwest — has seen in well over a month.

But in the meantime, a national shortage of firefighting resources persists throughout Montana and adjacent portions of the Northern Rockies, where more than 2,800 wildfires this year had burned more than 1.2 million acres of land.

Each day, the National Interagency Fire Center reviews the list of major wildfires burning across the west and designates priorities based on ten geographic areas across the country, and the highest-priority fires burning within those regions. The Northern Rockies region comprises Montana, Northern Idaho, North Dakota and portions of Wyoming and South Dakota.

As of Sunday, the more than 130,000-acre Rice Ridge fire, burning in the densely forested mountains north of Ovando and east of Seeley Lake, was highest priority in the nation, out of 38 large, uncontained wildfires currently burning in the United States.

"If we had more resources available, we would be ordering them," said Nicole Sticknie, a spokeswoman for the Type 1 incident management team assigned to the Rice Ridge fire. "The reality is that everybody is stretched thin with the amount of fires, and the large fires that we're facing right now, in pretty much the whole nation."

Incident management teams, assigned by the National Interagency Fire Center to manage the most complex fires burning in the country, draw their personnel from agencies throughout local, state and federal government agencies across the U.S. Type 1 teams are assigned to the most serious wildfires and fire complexes. All 16 of those top-tier teams are currently deployed throughout the country, and four are battling blazes in Western Montana.

"It does happen occasionally that we've got so much fire activity nationwide that it's a challenge to get resources," Brian Harris, with the Type 1 team fighting the Alice Creek fire northeast of Lincoln. "I certainly think this fire season is shaping up to be a remarkable one, with the volume of wildfires going on throughout the United States."

On the western end of the Billings Logan International Airport, a massive DC-10 air tanker parked near the inter-agency fire cache has recently appeared as a testament to the extreme fire conditions persisting throughout Montana. After initially staging out of Helena earlier this summer, fire officials began using the Billings airport due to the visibility-limiting smoke plaguing most of Western Montana.

One of three such firefighting jets in the country, this summer is the first time it began operating out of the Treasure State, and Bureau of Land Management spokesman Al Nash noted that temporary infrastructure needed to be installed at the Billings airport to accommodate the massive aircraft, which has a 11,600-gallon capacity for carrying chemical retardant.

"In the Northern Rockies, we've been at Preparedness Level 5 since August 10. That's atypical," Nash said, referring to the national fire center's ranking for regional wildfire conditions.

He noted that fire crews who typically work 14-day shifts with a two-day rest period in between are being asked to fight fire for 21-day stretches. And their growing fatigue is further compounded by the exodus of college-enrolled crew members returning to school for their fall semesters.

In an average year, the region would have already received a significant dump of rain or snow referred to as a "season-ending event," according to Mike Cole, another fire spokesman with the Type 1 team fighting the Rice Ridge Fire. He compared the length and severity of this year to the

historic fire season of 2000, which scorched nearly 600,000 acres in Montana.

While season-ending rains may be in store during the next couple weeks, he warned that the prolonged fire conditions in the Western U.S. could have a ripple effect on other parts of the country.

"In a normal year, the fires would be winding down in the West right now, and we would be ramping up and being ordered to Florida and Texas for hurricane relief efforts," he said.

As a long-time member of the Kalispell-based incident management team, Cole remembers leaving the wildfires behind and heading to San Antonio, Texas, in the wake of hurricanes Katrina and Rita in 2005. Twenty-person crews and other team members who typically battle flames in the Western U.S. found themselves working under the Federal Emergency Management Agency, assisting hurricane refugees and using their chainsaws to clear downed trees from roadways in the wake of the damaging storms.

"FEMA is going to be running into the same problem we are, where they can usually rely on us for additional resources, and we're not available," Cole said. "It's just kind of bad timing this year."

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Trump team gutting EPA when we need it most

The Hill

By: Fred Krupp

Published: September 11, 2017

As the U.S. Gulf Coast reels from impact of Hurricane Harvey, and Florida suffers through

Hurricane Irma, everyone is pitching in. Americans are sending donations of food, clothing, household goods and money.

Scientists from my organization, the Environmental Defense Fund, are on the scene helping Houston monitor a hazardous plume of carcinogenic benzene released last week from a damaged oil refinery.

Career professionals from the Environmental Protection Agency (EPA) are working around the clock as well. These men and women are risking their own health to do what only EPA can do, tapping world-class expertise to protect lives and public health.

For Congress, their heroic work creates a moment of truth: Will Congress give EPA the funding it needs to do its job?

Weakened by declining real budgets for years, the beleaguered agency is not just scrambling to deal with environmental threats unleashed by recent natural disasters; it's also facing radical budget cuts that would move us backward into a more dangerous and dirtier era.

President Trump and EPA Administrator Scott Pruitt have been pressing for months for historic budget cuts that include slashing key EPA assistance to communities who have suffered disasters.

The EPA plays a critical role during natural disasters by helping communities deal with life-threatening emergencies like chemical spills, fires and explosions. It helps inspect and secure Superfund sites to make sure toxic waste does not contaminate neighborhoods nearby.

EPA specialists assess water systems and deal with sewage spills and help homeowners deal with damage threats like exposed asbestos and leaking basement oil tanks.

When there's a disaster, state and local officials cry out for EPA assistance, which makes it so

jarring when political leaders pat the EPA on the back and take credit for its hard work — even as they support budget cuts that will cripple its ability to help Americans when disaster strikes.

Even worse, these cuts hollow out the EPA by reducing it to its lowest funding levels since the 1970s. They would cripple the EPA's ability to respond to catastrophes and help Americans everywhere, every day.

For example, the Trump budget would cut efforts to respond to chemical spills and eliminate the U.S. Chemical Safety Board, an independent federal agency that investigates industrial chemical accidents (including in Houston right now).

The president's budget would also impose a 40-percent cut to EPA's Community Right-to-Know programs that affect neighborhoods near approximately 20,000 industrial and federal facilities. It would even scale back training and support for local emergency responders.

Wait, there's more: The administration's budget calls for a 30-percent cut to Superfund and Brownfield programs that identify toxic and hazardous waste threats. Even EPA's Superfund Emergency Response & Removal program, designed to help communities with imminent threats, is singled out for an 18-percent cut.

EPA's support for air quality monitoring would also face cuts of nearly 30 percent. Communities rely on monitoring to warn parents to keep children inside during "Code Red" days and to learn when disasters and fires release hazardous chemicals.

Under the Trump budget, EPA water programs would also face 30-percent cuts, a blow to communities dealing with fecal contamination and toxin-releasing algae blooms that have shut down water systems around the country.

EPA efforts to monitor the injection of chemicals and wastewater from oil and gas operations into the ground would face similar cuts.

The Trump cuts would also ease up on other underground dangers. The budget calls for a 48-percent cut in support for monitoring of thousands of underground storage tanks leaking petroleum and other hazardous liquids. It would eliminate a program that helps states control pollutants that seep into drinking water from rainfall runoff.

There's even a 40-percent cut to EPA homeland security efforts that assess risks at major infrastructure facilities. In addition, the Trump budget would eliminate the EPA's Office of Environmental Justice, which helps low-income and minority communities who often suffer disproportionately during natural disasters.

Of course, behind it all, is the failure by this administration to fulfill its responsibility to limit climate pollution. Climate change makes these storms more powerful, more damaging and more expensive.

For every family, especially their vulnerable children and seniors, these cuts will mean more poisons in the soil and more toxic substances in the water. They will mean more smog, mercury, arsenic and lead in our bodies.

This is a crossroads moment for our country. Congress needs to support a strong EPA to protect our health and help our economy — both when disasters strike and year-round.

Fred Krupp is president of Environmental Defense Fund.

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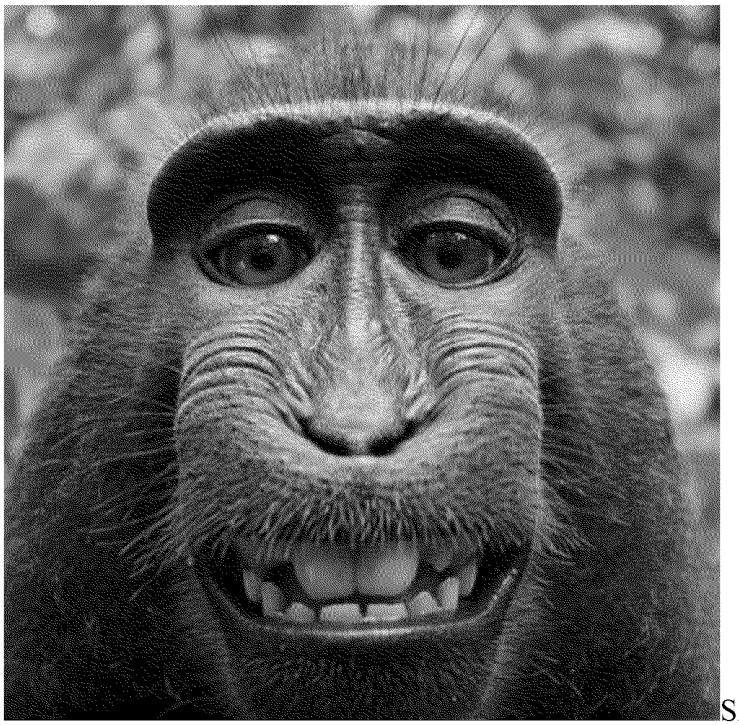
Lawsuit settled over rights to monkey's selfie photo

Associated Press

By: Sudhin Thanawala

Published: September 11, 2017



SAN FRANCISCO — Attorneys announced a settlement Monday in a lawsuit over who owns the copyright to selfie photographs taken by a monkey before a federal appeals court could answer the novel legal question.

Under the deal, the photographer whose camera was used to take the photos agreed to donate 25 percent of any future revenue from the images to charities dedicated to protecting crested macaques in Indonesia, lawyers for an animal-rights group said.

Attorneys for the group and the photographer, David Slater, asked the San Francisco-based 9th U.S. Circuit Court of Appeals to dismiss the case and throw out a lower court decision that said animals cannot own copyrights.

Andrew J. Dhuey, an attorney for Slater, declined to comment on how much money the photos have generated or whether Slater would keep all of the remaining 75 percent of future revenue.

There was no immediate ruling from the 9th Circuit.

The People for the Ethical Treatment of Animals sued on behalf of the macaque monkey in 2015, seeking financial control of the photographs for the benefit of the monkey named Naruto that snapped the photos with Slater's camera.

"PETA and David Slater agree that this case raises important, cutting-edge issues about expanding legal rights for non-human animals, a goal that they both support, and they will continue their respective work to achieve this goal," Slater and PETA said in a joint statement.

Lawyers for Slater argued that his company, Wildlife Personalities Ltd., owns worldwide commercial rights to the photos, including a now-famous selfie of the monkey's toothy grin.

The photos were taken during a 2011 trip to Sulawesi, Indonesia, with an unattended camera owned by Slater.

U.S. District Judge William Orrick said in a ruling in favor of Slater last year that "while Congress and the president can extend the protection of law to animals as well as humans, there is no indication that they did so in the Copyright Act." The 9th Circuit was considering PETA's appeal.

The lawyers notified the appeals court on Aug. 4 that they were nearing a settlement and asked the judges not to rule. A three-judge panel of the 9th Circuit heard oral arguments in the case in July.

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